United Nations A/HRC/32/39/Add.2

General Assembly

Distr.: General
6 May 2016

Original: English

Human Rights Council
Thirty-second session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, on an analysis of the progress made by Mexico in implementing the recommendations made following his official visit to Mexico from 22 April to 2 May 2013 (A/HRC/26/36/Add.1). The recommendations in the Special Rapporteur's mission report were aimed at enhancing the protection of the right to life and strengthening accountability for violations of that right.

During the period under review, extrajudicial killings and excessive use of force by security officers persisted. Vulnerable groups remained susceptible to violence and killings and continued to lack adequate protection in law and in practice. The Government of Mexico has introduced measures in an attempt to reduce homicides, tackle impunity, reduce the militarization of public security, improve institutional coordination and information-gathering in investigations of human rights violations and provide legal protection to vulnerable groups; however, efforts need to be intensified and properly implemented in practice. Arbitrary deprivation of life and impunity remain serious challenges in Mexico, as do reparations for the victims, which require political will and concerted efforts.

GE.16-07408(E)
1607408

Please recycle

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico*

Contents

		Page
I.	Introduction	3
II.	Methodology	3
III.	General observations	3
IV.	Legal and policy framework for securing the right to life	4
	A. Constitutional and international law bases	4
	B. Problems of continued militarization	5
	C. Further legislative needs	6
	D. Need to ensure a more robust legal and law enforcement system	8
	E. Human rights institutions	11
	F. Legacy of the "Dirty War"	12
V.	Vulnerable and frequently targeted groups and individuals	13
	A. Women	14
	B. Migrants	15
	C. Journalists and human rights defenders	15
	D. Children	18
	E. Inmates and detainees	18
	F. Lesbian, gay, bisexual and transgender individuals	19
VI.	Conclusions	19
VII.	Summary of follow-up to each recommendation	20
	A. Legal and policy framework	20
	B. Vulnerable persons	20
	C. General	20

* Circulated in the language of submission and Spanish only.

I. Introduction

1. The present report contains an analysis of the progress made by Mexico in implementing the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, following his visit to the country from 22 April to 2 May 2013. The mission report (A/HRC/26/36/Add.1) was submitted to the Human Rights Council at its twenty-sixth session in June 2014.

2. During his visit to Mexico, the Special Rapporteur observed that the right to life was under serious threat in the country as a result of various factors, including deficiencies in the legal system, increased organized crime activity and drug trafficking, militarization of policing, unwillingness or lack of capacity of police and prosecutors to investigate, distrust in the judicial system by citizenry and lack of accountability for violations.

3. The Special Rapporteur made recommendations in the following broad areas: legal and policy framework for the protection of the right to life; promoting accountability for past and present human rights violations; ending militarization of public security; ensuring civilian jurisdiction for human rights violations; adopting comprehensive standards on the use of force by law enforcement officials; protecting human rights while combating organized crime; and protecting the right to life of vulnerable groups.

II. Methodology

4. In paragraph 8 of its resolution 26/12, the Human Rights Council urged States to, inter alia, cooperate with and assist the Special Rapporteur in the performance of his or her tasks, supply all necessary information requested by him or her and ensure appropriate follow-up to his or her recommendations and conclusions, including by providing information to the Special Rapporteur on the actions taken on those recommendations.

5. In follow-up to his mission to Mexico, the Special Rapporteur requested information from the Government of Mexico and other actors on the steps taken to implement his recommendations. The Government responded on 28 September 2015 and a draft of the present follow-up report was submitted to the Government for comments on 15 March 2016. The Government submitted its comments on 13 April 2016.

6. The Special Rapporteur thanks the Government of Mexico for providing information on the measures taken to implement the recommendations contained in his mission report and for its response to the present report. He also expresses his gratitude to all who contributed to the present report.

III. General observations

7. In his mission report, the Special Rapporteur highlighted the disturbing levels of violence in Mexico and the widespread extrajudicial executions perpetrated by security forces and members of cartels, while underscoring the prevalence of impunity for those crimes. He recommended that the protection of the right to life, including the issue of accountability, should have a central place in the national human rights plan, under development (para. 120).[1] In responding to that recommendation, the Government of

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the paragraphs of the mission report (A/HRC/26/36/Add.1).

Mexico indicated that all actions envisaged in the National Human Rights Programme 2014-2018 were aimed at achieving the conditions in which human rights violations could be prevented and human rights for all realized. Non-governmental sources observed that the Programme did not include objectives or strategies to promote accountability for unlawful killings; nor did it set out indicators for recording the number of prosecutions for human rights violations. The Special Rapporteur regrets not having received specific information about the measures provided for in the Programme to protect the right to life and ensure accountability for the violation thereof.

IV. Legal and policy framework for securing the right to life

A. Constitutional and international law bases

8. The Special Rapporteur observed in his previous report that Mexico had instituted important legal and policy changes and commended it for the 2011 constitutional reform that granted human rights enshrined in international treaties equal status to the Constitution; however, he stressed that more needed to be done at the structural and implementation levels to prevent the unlawful loss of life. He recommended that pending federal and state legislation should be enacted to ensure the effective implementation of the reform on human rights. Proposals submitted to the Federal Congress that could weaken the reform's progressive clauses should be rejected. The *pro homine* principle should be retained and protected and the parity between international and national law should be reinforced (para. 93).

9. The Government, in its reply, informed the Special Rapporteur about the activities undertaken to bring the reform into effect, including efforts to strengthen the implementation process, the training of public servants and the dissemination of information on the reform. The National Human Rights Programme 2014-2018 had entered into force and a permanent round table for the revision of the administrative normative framework and harmonization with the human rights constitutional reform has been established. In its reply, the Government's did not specify whether legislation had been enacted to implement the reform. Other reports indicate that the harmonization of federal and state legislation with the 2011 constitutional reform remains insufficient. With regard to the parity between international and national human rights law, the Government reported that the Supreme Court of Justice had adopted decision 293/2011,[2] according to which the human rights enshrined in the Constitution and those ratified in international treaties have equal legal standing and together constitute the parameters for ensuring constitutional regularity. In the decision, the Supreme Court also noted the binding character of the jurisprudence of the Inter-American Court of Human Rights. The Special Rapporteur welcomes those developments; however, it should be noted that the decision proceeds to establish that, if the Constitution provides for an express restriction of the exercise of human rights, the constitutional restriction will prevail, effectively overriding the application of the *pro homine* principle. The Special Rapporteur notes with concern the Supreme Court's jurisprudence on the issue, which has the effect of re-establishing the regime of constitutional supremacy.

10. The Special Rapporteur welcomed the reforms aimed at transforming the country's semi-inquisitorial system into an oral, adversarial system of criminal justice. Nonetheless, he noted the slow progress made in its implementation and recommended its acceleration at the federal and state levels (para. 94). The Government reported on the initiatives

[2] Mexico, Supreme Court of Justice, Contradicción de Tesis 293/2011, 3 September 2013, p. 96.

undertaken to implement the reform of the criminal system, including: (a) the provision of training to the judiciary and police; (b) the adoption of a national agreement to assist with harmonizing the normative framework; (c) the agreement on collaboration between several government, judicial and police departments to coordinate capacity-building activities on the new criminal system; and (d) the creation in 2012 of the unit for the implementation of the accusatory criminal procedural system within the Office of the State Attorney General, which was further strengthened under agreements A/068/12 (Official Journal, 17 April 2012), A/182/14 (12 February 2015), A/032/15 (15 May 2015) and A/037/15 (1 June 2015). The National Criminal Procedure Code was published in March 2014 to govern the accusatory system and harmonize criminal procedures at the federal and state levels. With regard to the rate of implementation, the system operated fully in 6 federal entities and partially in the other 25. At the local level, the new system was operational in eight states. The Government expected the accusatory system to have entered into force across the country by June 2016. Non-governmental sources observed that the federal entities that had implemented the system had not yet comprehensively reformed their inquiry and justice administration practices, as required. The Special Rapporteur welcomes the progress made and notes the need for the full implementation of the new criminal system.

B. Problems of continued militarization

Moving away from the military paradigm in law enforcement

11. In his previous report, the Special Rapporteur had criticized Mexico for the fact that the armed forces were tasked with public security functions, observing the risk of abuse by agents unable to relinquish the military paradigm and the lack of accountability for such abuses in the military justice. He recommended that all necessary steps be taken, with immediate effect, to ensure that public security was upheld by civilian rather than military security forces (para. 103).

12. The Government indicated that the participation of the army, navy and air force in upholding public security was in accordance with article 129 of the Constitution and legal opinion 38/2000, under which the military is constitutionally empowered to exercise public security functions to support competent authorities. Non-governmental sources reported that, in some federal entities, military officials had been placed in charge of public security.

13. The Special Rapporteur regrets the lack of progress in the implementation of the recommendation and points to a series of tragic events that recently placed the armed forces at the centre of accusations of extrajudicial executions. In June 2014, 22 civilians were killed in Tlatlaya, State of Mexico, in a confrontation between armed civilians suspected of being involved in organized crime and the army. While Mexican authorities stated that all the deaths had occurred as part of a "shoot-out", military documents revealed that there was a standing order to "kill the criminals".[3] The National Human Rights Commission later established that at least 12 of the victims, and possibly as many as 15, were extrajudicially killed following their capture.[4] Other cases reportedly involving military officials include the enforced disappearance and killing of seven individuals in the municipality of Calera, State of Zacatecas, in July 2015, and the killing of a 12-year-old boy in Santa María Ostula, State of Michoacán, in July 2015.[5]

[3] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16198&LangID=E.

[4] National Human Rights Commission, recommendation No. 51/2014 of 21 October 2014, paras. 226 and 229.

[5] See report of the hearing, "Denuncias sobre ejecuciones extrajudiciales en México", p. 4 (available at http://centroprodh.org.mx/index.php?option=com_docman&task=doc_

14. In his mission report, the Special Rapporteur took note of the government plan to create a national gendarmerie as part of its strategy to reduce violence. He noted the need for the gendarmerie to function within a human rights framework and recommended that it be created by law, that its officers be properly trained to conduct public security tasks according to international human rights standards and that they be subject to effective civilian accountability measures and directed by civilian personnel without military backgrounds (para. 106). The Government reported that a gendarmerie consisting of 5,000 officers had been established within the Federal Police in August 2014 and was mandated to prevent crime and ensure public security and governed by principles of respect for individual and human rights. While the gendarmerie was a division of the Federal Police, officers had also received military training. The Special Rapporteur views as a positive development the fact that the gendarmerie was established outside the military jurisdiction and that human rights, among other principles, govern its mandate. However, its mandate is not regulated by law, as he had recommended. The Special Rapporteur regrets not having received information on whether gendarmes receive specific training on human rights or on the measures in place to ensure accountability for possible abuses.

Ending military jurisdiction in cases involving crimes against civilians and human rights violations

15. The Special Rapporteur voiced concern that military courts were used in Mexico to try military personnel for homicides involving civilians. He recommended that the Code of Military Justice be amended to ensure that all human rights violations allegedly perpetrated by the military were fully investigated, prosecuted and tried by civilian authorities; that the immediate transfer of all such cases to civilian jurisdiction be ensured; and that military investigators not initiate investigations into human rights violations (para. 105).

16. The Government replied that article 57 of the Code of Military Justice had been amended in 2014 to ensure that military courts had no competence to investigate and punish human rights violations committed by military personnel. Between 2012 and August 2015, 1,592 inquiries, 19 of which were into human rights violations, and 349 criminal proceedings were transferred to civilian jurisdiction. Other sources observed that the reform excluded human rights violations committed against military personnel by military personnel. The Inter-American Court of Human Rights ruled that the reform did not fully comply with international human rights standards.[6] Other sources raised concerns regarding how military investigations could affect civilian investigations. While the Special Rapporteur acknowledges the amendment of article 57 and the transfer of relevant cases to civilian courts, he regrets to learn about the exceptions retained in the reform that conflict with his recommendation.

C. Further legislative needs

Legal framework for the use of force

17. The Special Rapporteur expressed concern at reports of the disproportionate use of force by law enforcement officials during protests or arrests and noted the absence of a coherent legal framework in that field. He recommended that the Constitution be amended

details&gid=204&Itemid=57&lang=es); www.jornada.unam.mx/ultimas/2015/07/20/abre-cndh-pesquisas-sobre-aquila-y-calera-7819.html; and www.eluniversal.com.mx/articulo/estados/2015/07/20/indagan-militares-por-desaparecidos-en-zacatecas.

[6] See www.corteidh.or.cr/docs/supervisiones/radilla_17_04_15.pdf.

to approve a general law on the use of force — including during demonstrations and arrest — that applies to all federal, state and municipal security forces according to the highest international human rights standards (para. 107).

18. The Government responded that National Security Commission's agreements 04/2012 and 05/2012 established general guidelines for the use of force by public security officials. In 2014, the Ministry of Defence had issued a manual on the use of force for the armed forces. The Office of the State Attorney General had issued guidelines for the detention of persons by its officials (A/079/12) and for the use of force by Ministerial Federal Police (A/080/12). Security forces were also guided by the relevant international instruments. However, according to non-governmental sources, the 2013 Mexico City Police crowd control protocol contained problematic provisions, such as those allowing for a restrictive approach to assemblies and prioritization of the right to transit over the right to assembly, granting broad powers for police intervention during protests and giving ambiguous descriptions of situations in which the use of force was allowed. The implementation of that protocol had reportedly resulted in several persons being arbitrary detained and injured.

19. The Special Rapporteur was informed about recent cases of the excessive use of force by the police during demonstrations or gatherings. In July 2014, the police fired bullets towards demonstrators in the community of San Bernardino Chalchihuapan, State of Puebla, killing a child and injuring six persons. The police had reportedly based its actions on the 2014 Act to Protect Human Rights and Regulate the Legitimate Use of Force by Police Officers of the State of Puebla, which granted broad powers for police intervention and the use of lethal force during protests.[7] In September 2014, 3 persons had been killed and 43 students disappeared in Iguala, State of Guerrero, following joint operations by the municipal police and armed men against 80 students from the Raúl Isidro Burgos rural teacher-training college.[8] In January 2015, 10 persons had died and 21 had been injured during a protest in Apatzingán, State of Michoacán. While officials indicated that the victims had died in a confrontation between self-defence groups, the National Human Rights Commission established that serious human rights violations were committed by police agents resulting in five cases of deprivation of life and one extrajudicial execution.[9]

20. The Special Rapporteur regrets the lack of implementation of the recommendation and the ensuing episodes of excessive use of force and extrajudicial killings by the army and the police.

Homicide and the organized crime law

21. The Special Rapporteur stressed the lack of clarity regarding who is empowered to investigate and prosecute homicides linked to organized crime, which often results in federal authorities failing to take action. He recommended that the Federal Act on Combating Organized Crime be amended to include homicide as one of the offences that could be connected to organized crime (para. 108). The Special Rapporteur regrets that he has not received official information on whether that recommendation has been implemented; other sources reported that it had not.

[7] See National Human Rights Commission , recommendation No. 2VG/2014 of 11 September 2014, and www.cndh.org.mx/sites/all/doc/Comunicados/2015/Com_2015_195.pdf.

[8] See www.oas.org/es/cidh/decisiones/pdf/2014/MC409-14-ES.pdf.

[9] "Denuncias sobre ejecuciones extrajudiciales en México", p. 5; see also Inter-American Commission on Human Rights, *Situación de los derechos humanos en México*, paras. 224-229 (available at www.oas.org/es/cidh/informes/pdfs/Mexico2016-es.pdf); and www.cndh.org.mx/sites/all/doc/Comunicados/2015/Com_2015_356.pdf.

22. The Special Rapporteur recommended that homicide cases allegedly linked to organized crime be transferred to federal jurisdiction by reforming the federal law to allow federal authorities to investigate, prosecute and try such cases where the state authorities were not in a position or are unwilling to do so (para. 109). The Government replied that, while article 73 (XXI. b) of the Constitution empowered the Union Congress to enact laws relating to organized crime, until such law was enacted the Federal Act on Combating Organized Crime continued in effect; thus, the federal entities retained their jurisdiction in the field. Other sources indicated that the authorities had not implemented the requested reform. The Special Rapporteur regrets the lack of progress in connection to the recommendation.

D. Need to ensure a more robust legal and law enforcement system

Ensuring proper investigations

23. The Special Rapporteur noted that federal and state authorities had regularly been accused of failing to properly investigate cases of alleged killings, dismissing homicide cases suspected of links with organized crime and manipulating the crime scene or planting evidence to incriminate others, particularly when a State actor was implicated. With regard to the latter accusation, he recommended that all necessary steps be taken to ensure that the authorities did not alter crime scenes and to guarantee that authorities who obstructed investigations were held accountable, if need be through criminal prosecution (para. 104).

24. The Government replied that the National Criminal Procedure Code regulated the chain of custody and the responsibilities for evidence seized in connection to a crime. Under article 225 of the Federal Criminal Code, it was an offence against the administration of justice for public officials to manipulate the investigation, evidence or scene of a crime, or enable others to do so. The Office of the State Attorney General had issued agreement A/009/15 (Official Journal, 12 February 2015) laying down guidelines to be observed by public servants in relation to chains of custody, evidence and crime scenes. In November 2015, the Executive Secretariat of the National Public Security System had published the National Guide on the Chain of Custody, which aimed to guarantee the authenticity of material evidence to be used in criminal proceedings.[10] The Office of the State Attorney General had also signed agreements on collaboration with 19 federal entities for the standardization of regulatory criteria in this field.

25. Other sources observed that the manipulation of the crime scene remained a recurrent factor in cases involving extrajudicial killings. The Tlatlaya massacre and the May 2015 killing of 42 civilians and a policeman in Tanhuato, State of Michoacán, following a police raid against an alleged organized crime cell[11] were two recent examples where security forces have been accused of having manipulated the crime scene. Past incidents of crime scene manipulation or falsification also remained unpunished, as in the extrajudicial killing of two college students by military personnel in Monterrey in March 2010 (see A/HRC/26/36/Add.1, para. 45). The Special Rapporteur regrets that, despite the regulatory framework, the authorities continue to engage in such practices with impunity.

26. The Special Rapporteur raised the alarm about the number of cases where the investigative authorities failed to adequately preserve and transfer remains, making them inadequate for victim identification and court proceedings. While he was impressed by the work of the forensic services in Mexico City and Chihuahua, he noted a lack of expertise

[10] See http://dof.gob.mx/nota_detalle.php?codigo=5417232&fecha=26/11/2015.

[11] "Denuncias sobre ejecuciones extrajudiciales en México", p. 5, and Situación de los derechos humanos, para. 230.

and independence in other states and insufficient coordination of forensic services across states. He recommended the creation of a national forensic services institution with autonomous status, which would provide its services to all parties and authorities that took part in federal and/or state trials, to the human rights commissions and to civilians. He also recommended that it should have adequate infrastructure, sufficient human and financial resources and standardized protocols that applied nationally (para. 98).

27. The Government gave information about the work of the Directorate General of Forensic Medicine Services, the General Office for the Coordination of Expert Witness Services, which provides support to local prosecutor offices, and the Criminal Investigation Agency of the Office of the State Attorney General (A/101/13: Official Journal, 25 September 2013). Furthermore, all forensic services in the country must follow the protocol for forensic treatment and identification. In November 2014, all the High Courts of Justice in the country had agreed to promote the National Programme to Enable and Support Forensic Medical Services as a programme of national priority. In November 2015, the Executive Secretariat of the National Public Security System had published the national protocol for police with prosecuting capacity, which provided guidelines for the implementation of the forensic methodology. While the Special Rapporteur welcomes these initiatives, he notes that they should not aim to replace the establishment of a much needed independent and autonomous national forensic services institution. He learned through other sources that proposals had been submitted to the Senate for the establishment of a national forensic services institution.[12]

28. The Special Rapporteur underlined in his mission report the importance of creating digital and interlinked databases inter alia in the areas of fingerprinting, DNA, genetics, unidentified remains and missing persons. As violence in Mexico had an important regional component, he emphasized the need to seek collaboration in that area. He recommended that Mexico work with countries in Central America to establish shared databases on fingerprints, DNA, genetics, missing persons and unidentified remains (para. 110).

29. The Government responded that the Office of the State Attorney General had concluded cooperation agreements with the Jalisco Institute of Forensic Sciences and the prosecutor offices of 11 states to exchange genetic data that would update the National Genetic Database (Official Journal, 20 November 2014). It had also created the Special Prosecutor for the Search for Disappeared Persons (A/094/15; Official Journal, 10 September 2015), issued the protocol for the search for disappeared persons and investigation of the crime of enforced disappearance (Official Journal, 23 September 2015) and signed an agreement with the International Committee of the Red Cross for the licensing and use of software for the Ante Mortem and Post Mortem database, which facilitated the search for disappeared persons and the identification of remains (although other sources noted that the database was not yet complete). Furthermore, the state prosecutor offices had met to draft the protocol for forensic treatment and identification. The Special Rapporteur welcomes the steps taken to improve the search for and identification of disappeared persons and the collection of genetic data at the domestic level. He regrets to learn that no regional database fulfilling the requirements spelled out in the recommendation exists.

30. The Special Rapporteur recommended the creation of a consolidated public database containing information on homicides disaggregated by state, county, gender, age and other relevant criteria in order to facilitate the design of effective public policy strategies and to

[12] See www.senado.gob.mx/sgsp/gaceta/63/1/2015-09-22-1/assets/documentos/Inic_PAN_Pilar_Ortega_CPEUM.pdf and www.senado.gob.mx/sgsp/gaceta/63/1/2015-09-22-1/assets/documentos/Inic_PRD_Vianey_otros_Servicios_Periciales_Autonomos.pdf.

promote accountability (para. 99). The Government replied that the National Institute of Statistics and Geography, in collaboration with the National Public Security System, collected national statistics on public security, including in a public database containing information on homicidal deaths, which allowed for searches disaggregated by federal entity, municipality, sex, age, civil status, nationality and indigenous language, inter alia.[13] Furthermore, the Institutional System of Statistical Information (created by agreement A/018/12; Official Journal, 7 February 2012)[14] collected statistical information regarding the investigations and criminal proceedings of the Office of the State Attorney General. The Special Rapporteur takes note of this comprehensive database.

Enhancing institutional independence

31. The Special Rapporteur voiced concern at accusations of the lack of independence of the judiciary, contributing to impunity and insufficient sentences against prosecuted state actors or members of organized criminal groups. He also observed the fear of intimidation, threat and attack against prosecutors or other judicial authorities.

32. With regard to the Office of the State Attorney General, the Special Rapporteur recommended that secondary legislation be adopted in order to make the Office fully independent of the executive branch according to the new constitutional framework (para. 95). The Government replied that the Chamber of Deputies had approved a decision in 2014 establishing the Act on the Attorney General of the Republic, which grants it constitutional autonomy. The Act was presented to the Senate in March 2016, where it is pending approval.

Assisting witnesses, victims and their families

33. The Special Rapporteur noted with dismay the accounts received of witness intimidation, as well as of reprisals and threats against families of victims by state authorities or organized criminal groups. He also observed that witnesses and families were reluctant to trust public officials or protection programmes, often seeing them as ineffective or susceptible to corruption. The Special Rapporteur emphasized that the Government should provide greater protection for families of victims and welcomed the adoption of the Victims Act and the National Criminal Procedure Code, which included protective measures for victims. He recommended the prompt and effective implementation of the Victims Act, including at the local level, and the full and representative participation of civil society and victims in the implementation and functioning of the Act (para. 122).

34. The Government reported that the Act had been published in 2014 (Official Journal, 28 November 2014) and had established the National Victim Support System to coordinate and formulate public policy and the Executive Commission for Victim Support as an operative organ thereof. In May 2015, the National Victim Support System had approved the Programme for Comprehensive Victim Support, which coordinated measures to protect victims' rights. In November 2014, the Executive Commission for Victim Support had established the Fund for Comprehensive Assistance and Reparation to deliver assistance and reparation to victims. The Fund received by law 0.014 per cent of programmed authorized expenditure under the national budget. The Fund assets as of December 2015 amounted to 985.1 million pesos. In 2015, 47 million pesos had been used to provide assistance and reparation for 130 direct and indirect victims of federal crimes and human rights violations committed by federal authorities. Seven states had created executive commissions for victim support, with technical, operational and resource autonomy. Six

[13] See www.inegi.org.mx/sistemas/olap/proyectos/bd/continuas/mortalidad/defuncioneshom.asp?s=est.

[14] Reformed under agreement A/084/15 (Official Journal, 5 October 2015).

other states had state commissions that were dependent on the state's government. The laws of the States of Guerrero and Michoacán were harmonized with the Victims Act, but they had not yet established a state commission. The State of Chihuahua had adopted the Act to Assist and Protect Victims of Crime, as well as a fund devoted to the same purpose. The remaining states were in the process of harmonizing their legislation with the Victims Act.

35. Non-governmental sources observed that the Victims Act was in its initial stages of implementation and had not substantially improved access to truth, justice and reparations for violations of the right to life. One of the main factors hampering its effectiveness was the requirement of a court ruling or a recommendation from a human rights institution for a person to be considered a victim of a human rights violation.[15] The Special Rapporteur welcomes the various steps taken at the federal and state level to implement the Act but notes the remaining obstacles hampering victims' access to assistance and reparation.

36. The Special Rapporteur recommended that a stigmatization of victims of violence never occur and that public statements by government officials on the legality of killings not be made without proper consideration of the facts (para. 121). The Government replied that the Victims Act included the principle of non-criminalization, according to which authorities should not stigmatize or treat victims as suspects or express judgment about their possible connection to a crime. Furthermore, the official circular C/004/2009 of the Office of the State Attorney General instructed its personnel not to disclose information about possible perpetrators of federal crimes or the modus operandi of organized criminal groups. Other sources pointed to the continued practice of the criminalization and stigmatization of victims who had been deprived of their lives. The Special Rapporteur regrets that the government reply relates to activities that predate the country visit and is insufficient to update him on the status of the implementation of the recommendation. He also regrets to learn that instances of stigmatization and criminalization of victims continue to occur.

E. Human rights institutions

37. The Special Rapporteur stressed the need to strengthen the capacities and autonomy of the National Human Rights Commission and 32 state human rights commissions, and noted the insufficient commitment from the authorities and the unsatisfactory rate of compliance with the Commission's recommendations. He recommended that the human rights commissions made more use of their powers granted by law to follow up on their recommendations where prosecutions for homicide were at stake (para. 97).

38. The Government responded that the Commission was to conduct an administrative and operative redesign in 2015 to strengthen its work, although it did not give details of the status of that restructuring. The Special Rapporteur regrets that he did not receive sufficient information to assess compliance with the recommendation. Information received from civil society indicates a lack of progress thereon.

39. The Special Rapporteur also recommended that the public defender system be made independent from the executive branch at the federal level and in all states, that its infrastructure be improved and that sufficient human and financial resources be allocated in order to uphold the principle of equality of parties within the criminal justice system (para. 96). The Government replied that the 2008 constitutional reform mandated the Federation, states and Mexico City to guarantee the existence of a quality public defender system and a professional career for public defenders. On resource allocation, it noted the

[15] Victims Act, arts. 65, 67, 69 and 110. The Act can be interpreted so as to allow the Executive Commission for Victim Support to recognize a person's status as victim.

proposed cooperation agreement between the Council of the Federal Judiciary and the Office of the State Attorney General for the allocation of Council resources to the federal public defender offices located within the buildings of the Office of the State Attorney General. Other sources stressed the continuing scarcity of resources and the poor quality of representation provided by the public defender system in Mexico. The Special Rapporteur regrets the insufficient progress made in that field.

F. Legacy of the "Dirty War"

40. The Special Rapporteur expressed dismay at the total absence of effective prosecutions following the so-called "Dirty War", in which a large but unknown number of persons had been executed. He recommended that the extrajudicial executions and massacres committed during that period be duly investigated, prosecuted and tried, that the perpetrators be punished and that the victims and their relatives receive adequate reparation (para. 100). The Government replied that the General Investigation Coordination Office of the Office of the State Attorney General was processing 247 inquiries for crimes committed during that period, including homicides, arbitrary detentions and disappearances. The Office of the State Attorney General specific agreement A/089/15 offered a reward for information on enforced disappearances (Official Journal, 12 October 2015). To ensure transparency, the Office of the State Attorney General allowed the families of the disappeared, civil society organizations and public human rights institutions access to prosecution proceedings. Concerning reparations, the Victims Act provided for comprehensive reparation for victims, including measures of restitution, rehabilitation, financial compensation and guarantees of non-recurrence.

41. Non-governmental sources observed the lack of progress in investigations and prosecution of extrajudicial executions committed during the Dirty War. While noting the information about inquiries conducted by the Office of the State Attorney General, the Special Rapporteur regrets that they have not yet resulted in effective prosecution and sanctioning of perpetrators and redress for victims.

42. The Special Rapporteur stressed his concern that many of these crimes were considered to have expired as a result of the statute of limitations imposed by the country's interpretative declaration to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, under which the Convention only applies to crimes committed after 2002. He recommended withdrawing the interpretative declaration as it undermined the effectiveness of efforts to investigate, prosecute and try the extrajudicial executions and massacres committed during the so-called Dirty War (para. 102). The Special Rapporteur regrets not having received updates from the Government regarding the recommendation, while other sources indicated that it had not been implemented.

43. The Special Rapporteur observed that the work of the Truth Commission in the State of Guerrero, established in 2012 to investigate violations committed there during the Dirty War, had been hampered by its lack of access to information compiled by the Office of the State Attorney General. He recommended that the Truth Commission receive all the support needed to ensure that it succeeded and that the documentation assembled by the Office of the State Attorney General regarding executions during the Dirty War be made available, if not publicly, then at least to the members of the Truth Commission (para. 101). The Government recalled that, according to existing norms, the power to investigate those crimes fell solely to the public prosecutor and that the information stemming from its investigations was considered confidential. The National Criminal Procedure Code only allowed access to such investigations to the parties relevant to the case. Despite confidentiality and data protection requirements, the Office of the State Attorney General

had lifted the restrictions on disclosure of information in order to furnish the Truth Commission of Guerrero with a list of inquiries initiated by the defunct Office of the Special Prosecutor for Social and Political Movements of the Past, 16 of which were now in the hands of the General Investigation Coordination Office of the Office of the State Attorney General.

44. Non-governmental sources observed that the information collected by the Office of the State Attorney General on crimes committed during that period could not be accessed by citizens unless they filed a public information request, which seldom resulted in access to complete records. Moreover, in 2015, the National Archives restricted public access to records on the Dirty War, limiting the scope of a decision adopted in 2001 to declassify Dirty War files. While the Special Rapporteur is pleased to learn that the Office of the State Attorney General has shared relevant information with the Truth Commission of the State of Guerrero, he regrets to hear of the restrictions placed on public access to records on the Dirty War.[16]

V. Vulnerable and frequently targeted groups and individuals

45. The Special Rapporteur observed with concern the high number of killings of vulnerable persons and recommended that full, prompt, effective, impartial and diligent investigation of homicides perpetrated against women, migrants, journalists and human rights defenders, children, inmates and detainees and lesbian, gay, bisexual and transgender individuals be ensured (para. 111). The Government replied that, in addition to the implementation of the new adversarial accusatory system, eight protocols had been issued by the Supreme Court to facilitate the judiciary's compliance with human rights obligations, including with regard to: (a) children and adolescents; (b) indigenous peoples; (c) the gender perspective; (d) sexual orientation and gender identity; (e) persons with disabilities; (f) migrants and persons subject to international protection; (g) torture and ill-treatment; and (h) development and infrastructure.

46. With regard to femicides, the Office of the State Attorney General had established the Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons and published a protocol for ministerial, police and expert investigations with a gender perspective for the crime of femicide (Official Journal, 3 March 2015), which established minimum rules for undertaking investigations in connection to that crime. In addition, the National Commission for the Prevention and Eradication of Violence against Women monitored the Comprehensive Programme to Prevent, Care, Sanction and Eradicate Violence against Women.

47. The following entities of the Office of the State Attorney General prosecuted crimes against migrants: the Special Prosecutor for the Search for Disappeared Persons; the Special Unit for the Investigation of Trafficking of Persons, Children or Organs; the Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons; the Special Unit for the Investigation of Kidnapping; the General Coordination Office for the Investigation and Prosecution of Crimes relating to Trafficking; the Unit for the Investigation of Crimes against Migrants; and the Mexican External Support Mechanism for Search and Investigation.

48. Concerning journalists, the Office of the Special Prosecutor for Offences Committed against Freedom of Expression (FEADLE) had expanded its response capacity through a series of reforms published in May 2013. The Mechanism for the Protection of Human

[16] See www.jornada.unam.mx/2015/03/11/politica/009n2pol.

Rights Defenders and Journalists coordinated work in that field in collaboration with the Office of the State Attorney General, the Ministry of the Interior, the Secretariat Ministry of Foreign Affairs, the National Human Rights Commission, non-governmental organizations and federal entities.

49. Regarding lesbian, gay, bisexual and transgender persons, in June 2015, the Office of the State Attorney General published an action protocol to be followed by its personnel who intervened in cases involving sexual orientation or gender identity.

50. While noting these positive steps, the Special Rapporteur regrets not receiving information on prosecutions effectively carried out for violations against members of vulnerable groups. The Inter-American Commission on Human Rights noted in 2015 that vulnerable groups continued to be disproportionally subject to violence and human rights violations, particularly migrants, asylum seekers, refugees, women, children, and persons living in poverty. It also observed worrying levels of violence against families of victims, human rights defenders and journalists, and noted that their lack of access to justice fostered structural impunity for these violations.[17]

A. Women

51. While the Special Rapporteur noted the legislative and institutional reforms adopted in Mexico to address femicide and the implementation of the Cotton Field ruling of the Inter-American Court of Human Rights, he warned about the persistence of violence against women, often resulting in death and followed by impunity. He recommended that the Government consider codifying femicide in all relevant criminal codes based on objective characteristics, standardize police investigation protocols for femicide across the country and adopt measures to fully implement the ruling of the Inter-American Court of Human Rights in the Cotton Field case (para. 112). The Government replied that the crime of femicide was codified in 31 of the 32 federal entities. The 32 federal entities had enacted the Act on Access of Women to a Life Free of Violence and 28 of them had adopted regulations implementing the Act. In addition, each of the 32 entities had established a system to prevent, sanction and eradicate violence against women and care for the victims. In March 2015, the Office of the State Attorney General published two protocols for conducting ministerial, police and expert investigations, with a gender perspective, one for cases of sexual violence and the other for crimes of femicide. Regarding the ruling of the Inter-American Court of Human Rights, the Sub-commission for Coordination and Liaison to Prevent and Eradicate Violence against Women in Ciudad Juárez was established in 2013 to facilitate compliance with the ruling, and the Alba protocol was adopted in 2012 establishing the Technical Collaboration Group to Search for Disappeared Women and Girls. Other sources indicated that, despite those measures, the codification of femicides had not been homologated at all levels, investigations were not effective and the work of relevant authorities lacked compliance with the standards set out in the ruling. The Special Rapporteur welcomes the study on femicide undertaken by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and several Federal Government agencies. He notes the progress made and the challenges remaining in the implementation of the recommendation.

[17] See www.oas.org/es/cidh/prensa/comunicados/2014/146A.asp.

B. Migrants

52. The Special Rapporteur stressed that undocumented migrants transiting through Mexico faced the risk of killing and disappearance, and noted the reported link between these crimes, police complicity and organized crime. He recommended that: a safe corridor be created for migrants in transit, including better protection while in transit; a package of protection and accountability measures be adopted to prevent attacks in migrant shelters; cooperation be strengthened between state departments and community organizations that provided humanitarian assistance to migrants; adequate redress be provided to victims of violence committed in the country; consideration be given to following an approach whereby undocumented migrants could exercise rights such as the right to report crimes to the authorities without fearing arrest; and the dignified repatriation of corpses be ensured in coordination with the State of origin (para. 113).

53. The Government responded that the National Institute of Migration had established 22 migrant protection groups, or "Beta Groups", mandated to provide orientation, humanitarian assistance, rescue services and legal aid to transiting migrants, regardless of their nationality and legal status. The Institute also created 461 child protection officer posts in 32 federal delegations to assist unaccompanied migrant children. The Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons had set up a shelter to protect and assist victims of trafficking. Agreement A/117/15 (Official Journal, 18 December 2015) of the Office of the State Attorney General had established the Unit for the Investigation of Crimes against Migrants and the Mexican External Support Mechanism for Search and Investigation. In the States of Chiapas and Tabasco, strategic locations for migrant transit, the offices of the State Attorney General provided special care for migrant victims of crime. At the regional level, the Office of the State Attorney General promoted the regional cooperation initiative for prosecutors and attorneys-general from El Salvador, Guatemala, Honduras and the United States of America to develop strategies to protect migrants and combat trafficking networks. In July 2014, the Coordination Office for Comprehensive Assistance for Migration in the Southern Border Area had been established to coordinate regional action and strengthen state presence, in response to security and human rights challenges posed by migration flow. It was intended to establish a more efficient and secure border and combat crime against migrants.

54. Other reports pointed to the inconsistency between the stated objective of the Southern Border Plan to "protect and safeguard the human rights of migrants transiting through Mexico" and one of its strategic lines of action aimed at managing migration flows. The measures adopted to strengthen border control since the implementation of the plan had reportedly resulted in increased vulnerability for transiting migrants, who were now faced with multiple checks and sometimes extortion from police, military and National Institute of Migration agents, while continuing to be victims of organized criminal groups. The Special Rapporteur notes the measures adopted at the local, federal and regional levels to assist transiting migrants but regrets to learn about the situation of migrants affected by the Southern Border Plan.

C. Journalists and human rights defenders

55. During his visit, the Special Rapporteur had been informed about the alarming number of journalists and human rights defenders who were victims of threats, attacks and killings, sometimes even at the hands of authorities. He recommended that special investigation protocols be adopted for crimes committed against journalists and human rights defenders, requiring full examination of the possibility that the crime was committed because of the victim's profession (para. 114). The Government replied that, under

agreement A/145/10 creating FEADLE, all persons opining or informing through a media outlet were to be considered as journalists and human rights defenders when victims of crimes. FEADLE provided assistance and protection to victims, systematized data collection on investigations carried out pursuant to abuses and granted protection measures in coordination with the Unit for the Reception of Cases and Rapid Response within the Ministry of the Interior's National Executive Coordination Office. The Office of the State Attorney General had developed several protocols in these field, including: (a) agreement A/118/2003, establishing institutional guidelines for the protection of journalist's sources of information who appeared as witnesses (Official Journal, 11 December 2003); (b) agreement A/136/05, adopting guidelines for the Office of the State Attorney General delegates to address crimes against journalists (Official Journal, 29 July 2005); (c) a cooperation agreement between the Ministry of the Interior, the Ministry of Foreign Affairs, the Office of the State Attorney General and the National Human Rights Commission for the adoption of preventive and protection measures for journalists (Official Journal, November 2010); and (d) the operating rules for the trust fund for the protection of human rights defenders and journalists (Official Journal, 5 November 2013).

56. Non-governmental sources reported that FEADLE had no special investigation protocols for crimes against journalists in place at the federal level. In Mexico City, the Attorney General thereof issued agreement A/11/2010 in 2010, establishing an investigation protocol for crimes committed against journalists owing to their profession, and agreement A/04/2010, establishing an agency specialized in crimes against journalists. However, the same sources noted that the protocols' implementation was discretional and results were scarce,[18] and pointed to the fact that Mexico City had become the state with the highest number of documented attacks against the press in 2014, most of which remained unpunished. In April 2015, the offices of the prosecutor in Morelos and Sinaloa had also adopted protocols for the investigation of crimes against freedom of expression. The Inter-American Commission on Human Rights observed the persistence of acute violence against journalists, especially in areas suffering from organized crime and collusion with state agents, and the killing of 12 journalists between 2014 and 2015.[19] The National Human Rights Commission recently reported that 80 per cent of homicides against journalists were unsanctioned.[20] It also noted the increase in the number of human rights defenders killed since 2011.[21] The Special Rapporteur regrets that the information received relates mostly to regulations adopted prior to his mission and fails to update him on the implementation of the recommendation. He also regrets to learn about the continued violence suffered by journalists and the related impunity.

57. The Special Rapporteur noted in his mission report the measures adopted to enhance protection for journalists and defenders and the legal reforms established to enable investigation and prosecution of crimes against journalists at the federal level. He observed, however, that implementation was insufficient and recommended that the reform allowing federal authorities to exercise jurisdiction over offences committed against freedom of expression be effectively implemented and that the office of the special prosecutor be endowed with appropriate legal status, autonomy and sufficient resources (para. 115). In its previous response, the Government had indicated the functions carried out by FEADLE, but did not give information about its resources, legal status and autonomy. In its present response, it recalled that article 73 (XXI) of the Constitution allows federal authorities to

[18] See www.articulo19.org/la-procuraduria-del-df-viola-protocolos-de-investigacion-en-el-homicidio-multiple-de-la-colonia-narvarte.

[19] Situación de los derechos humanos, paras. 374-376; and www.oas.org/es/cidh/prensa/comunicados/2014/146A.asp.

[20] See www.cndh.org.mx/sites/all/doc/Recomendaciones/generales/RecGral_024.pdf.

[21] See www.cndh.org.mx/sites/all/doc/Recomendaciones/generales/RecGral_025.pdf.

exercise jurisdiction over offences committed against freedom of expression and that the conditions to exercise this jurisdiction were set forth in article 21 of the Criminal Procedure Code, including where: (a) offences severely affected freedom of expression or information; (b) offences were committed or manifested in states where these rights were seriously jeopardized; and (c) a decision from an international body established the State's responsibility in the restriction of these rights. In September 2015, the authorities started working on rules of procedure to implement the Organic Law of the Office of the State Attorney General and establish a specialized unit for crimes against freedom of information and freedom of expression.

58. Other sources indicated that FEADLE exercised its jurisdiction on a discretionary basis, as it investigated crimes against journalists but not against freedom of expression and adopted a restrictive definition of journalism, which often excluded persons who exercised this profession from non-conventional platforms or for whom journalism was not the main profession or source of income. For example, in the murder of Moses Sanchez, director and editor of the newspaper *La Union* of Medellín de Bravo, the Office of the State Attorney General qualified him only as a taxi driver and dismissed his case as unrelated to his journalism.[22] In addition, FEADLE often procrastinated in deciding to exercise its jurisdiction, leaving it to local entities to initiate inquiries, which meant that investigations could be partial or incomplete. The Inter-American Commission on Human Rights noted the reticence of FEADLE to exercise its jurisdiction over serious crimes and the lack of complete results in its investigations.[23] The National Human Rights Commission noted delays and deficiencies in some FEADLE investigations,[24] as well as difficulties in accessing information and figures on cases investigated by it.[25] The Special Rapporteur regrets to learn about the delays and the restrictive approach used by FEADLE in exercising its jurisdiction.

59. The Special Rapporteur also recommended that consideration be given to ensuring the full implementation of the Act on the Protection of Human Rights Defenders and Journalists, providing the necessary financial and human resources for the effective and transparent implementation of the Mechanism for the Protection of Human Rights Defenders and Journalists, guaranteeing close coordination between the bodies responsible for preventive and protective measures and ensuring the full participation of journalists, human rights defenders, civil society and beneficiaries in the implementation and functioning of the Mechanism. He also recommended raising awareness about the existence of the mechanism, especially at the local level (para. 116). The Government reported that the Mechanism had received 297 applications by July 2015, of which 239 had been admitted. Efforts were made to improve the functioning of the Mechanism, including: (a) collaborating with Freedom House to improve the methodology for analysing applications and to overcome the backlog; (b) increasing the effectiveness of protection measures and incorporating a gender and a collective perspective into risk analyses; (c) creating a prevention unit; and (d) working towards the implementation of the annual operative plan with a strategic vision. The Mechanism's trust fund for the protection of human rights defenders and journalists had received 267 million pesos for the provision of protection measures by March 2015. A civil society report published in July 2015 observed a number of challenges in the implementation of the Mechanism, including: (a) a lack of political support at the highest level; (b) insufficient coordination with state and municipal

[22] See www.cndh.org.mx/sites/all/doc/Recomendaciones/generales/RecGral_024.pdf, para. 91; and http://www.articulo19.org/pgr-niega-que-moises-sanchez-fuera-periodista/.

[23] See www.oas.org/es/cidh/prensa/comunicados/2014/146A.asp; Situación de los derechos humanos, paras. 388 and 418-427.

[24] See www.cndh.org.mx/sites/all/doc/Recomendaciones/generales/RecGral_024.pdf, paras. 91 and 111.

[25] Ibid.

authorities; (c) inefficient functioning of the prevention unit; (d) insufficiently trained staff who rotate frequently; (e) an unclear methodology for risk assessment and errors made in risk analyses; (f) insufficient implementation of measures ordered; (g) protection measures focused on police protection and excluding root causes; (h) over-reliance on privatization of protection measures (panic buttons and private security); and (i) ineffective awareness-raising.[26] The Inter-American Commission on Human Rights observed the improvement of the Mechanism's internal procedures, while pointing to administrative and operative deficiencies, delays in the implementation of measures, a lack of follow-up to measures ordered and deficiencies in the panic button.[27] The Special Rapporteur is concerned about the numerous remaining challenges to the implementation of the recommendation and welcomes the recent measures adopted to overcome some of them.

D. Children

60. The Special Rapporteur noted with concern the high number of children unlawfully killed and the steady increase in deaths of youths, as well as the situation of children who were recruited by organized criminal groups and were subsequently killed in intercartel violence or confrontations with the police. He recommended that appropriate measures be taken to protect the right to life of children, particularly during public security actions, and that regulations be established for the armed forces, police and justice personnel on how to ensure the rights of children during the investigations of homicides. Data on the number of children killed should be collected and effective public policies should be introduced to prevent adolescents from being recruited by organized crime (para. 117). The Government recalled the existence of a general law and rules of procedure on the rights of children and adolescents, the agreement and protocol to assist children and adolescents in the context of organized crime, and agreement A/323/06 of the Office of the State Attorney General, entrusting an agent in each unit with all criminal cases involving children. Other sources indicated that children continued to be killed during security operations, as had been the case recently in Santa María Ostula, and in Tamaulipas where two babies had been injured when their mothers' car had been shot at by soldiers who had mistakenly taken them for criminals.[28] The Special Rapporteur regrets the lack of progress in the implementation of this recommendation, particularly with regard to the collection of data and the adoption of mechanisms to protect children from violence by criminal groups or during public security operations.

E. Inmates and detainees

61. The Special Rapporteur expressed concern at the total lack of comprehensive and reliable information on deaths in places of detention. Such deaths were often the result of prison riots, mass escapes, targeted assassinations and torture. He recommended that conditions for all detainees be improved in compliance with the Standard Minimum Rules for the Treatment of Prisoners, and the right to life of all inmates be ensured (para. 118). The Government reported that federal prisons had increased their capacity by 22 per cent between 2012 and 2015 and that nine new federal social readaptation centres were under construction. A pilot project had been implemented to provide highly specialized

[26] See http://redtdt.org.mx/wp-content/uploads/2015/07/272758468-Segundo-diagno-stico-Espacio-OSC.pdf.

[27] See www.oas.org/es/cidh/prensa/comunicados/2014/146A.asp; Situación de los derechos humanos, paras. 431-451.

[28] The incident took place in late October 2015.

examinations through telemedicine. Furthermore, the Senate was drafting an opinion with a view to issuing the National Criminal Enforcement Act, which was intended to benefit inmates and focus on improving their social inclusion. The Special Rapporteur acknowledges the measures adopted to increase the structural capacity of prisons and to improve access to health care and social engagement. He regrets that he did not receive information on measures adopted to protect prisoners from threats to their life and physical integrity. In that regard, he is dismayed to learn about the deaths of 49 people during a quarrel between inmates in Topo Chico prison, an institution that has been denounced for its deficits in security and governance by the National Human Rights Commission and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.[29]

F. Lesbian, gay, bisexual and transgender individuals

62. The Special Rapporteur noted the alarming pattern of grotesque homicides of lesbian, gay, bisexual and transgender individuals and the broad impunity for these crimes, sometimes with the suspected complicity of investigative authorities. He recommended that police and other authorities be trained on gender-identity and sexual-orientation awareness, that protective and precautionary measures be ensured and that societal tolerance be encouraged (para. 119). The Government replied that the 2014 reform of the Federal Act for the Prevention and Elimination of Discrimination included homophobia and violence against individuals based on their sexual orientation as acts of discrimination. Fifteen federal entities had adopted constitutional provisions prohibiting discrimination on these grounds. The Government had instituted the National Day for the Fight against Homophobia and adopted the National Programme on Equality and Non-Discrimination for 2014-2018, which included several lines of work to combat violence and discrimination on the grounds of sexual orientation and gender identity. The Government also recalled the July 2015 protocol of the Office of the State Attorney General in this field. The Inter-American Commission on Human Rights observed that 42 homicides of transsexual persons and 37 homicides of homosexual men had been reported between January 2013 and March 2014.[30] While the Special Rapporteur takes note of the measures adopted to combat violence and discrimination against lesbian, gay, bisexual and transgender persons, he is dismayed to learn about the recurrence of violence against them. He observes the lack of information concerning training initiatives.

VI. Conclusions

63. **In the two years since the country visit, Mexico has made progress in addressing some of the concerns and recommendations in the report, and various other reforms are under way. The Government has implemented a number of positive measures to tackle impunity, reduce the militarization of public security, improve institutional coordination and information gathering in investigations of human rights violations and provide legal protection to vulnerable groups.**

64. **However, Mexico continues to face various challenges in relation to the protection of the right to life. Violence at the hands of State and non-State actors continues to affect lives, particularly of vulnerable persons. Protective measures for**

[29] See www.cndh.org.mx/sites/all/doc/Comunicados/2016/Com_2016_040.pdf and www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=17045&LangID=S.

[30] Situación de los derechos humanos, para. 261.

groups at risk remain insufficient and ineffective. Despite a series of legal and institutional reforms, the lack of accountability for violations of the right to life remains a serious challenge, fostering the public perception of impunity and feeding into the cycle of violence. Adequate reparations to victims are still pending. Additional measures are still required to fully implement the Special Rapporteur's previous recommendations in order to better ensure the protection of the right to life.

VII. Summary of follow-up to each recommendation[31]

A. Legal and policy framework

65. **The recommendations contained in paragraphs 94, 95, 99, 101 and 104-106 have been partially implemented.**

66. **The recommendations contained in paragraphs 93, 96, 98, 100, 102, 103, 107, 109 and 110 have not been implemented.**

67. **Insufficient information has been provided to enable assessment of progress in implementing the recommendations contained in paragraphs 97 and 108.**

B. Vulnerable persons

68. **The recommendations contained in paragraphs 111-113, 115, 116 and 119 have been partially implemented.**

69. **The recommendations contained in paragraphs 117 and 118 have not been implemented.**

70. **Insufficient information has been provided to enable assessment of progress in implementing the recommendations contained in paragraph 114.**

C. General

71. **The recommendations contained in paragraph 122 have been partially implemented.**

72. **The recommendations contained in paragraphs 120 and 121 have not been implemented.**

---

[31] See A/HRC/26/36/Add.1, paras. 93-122.

United Nations A/HRC/32/39/Add.3

General Assembly

Distr.: General
17 June 2016

English/French/Spanish only

Human Rights Council
Thirty-second session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*

Addendum

Observations on communications transmitted to Governments and replies received

* Reproduced as received.

GE.16-10079(E)
1610079

Please recycle

Contents

		Page
I.	Introduction	3
II.	Tabulation (A) of cases transmitted and replies received to communication sent during the reporting period	4
	A. Violations alleged	4
	B. Character of replies received	5
	C. Tabulation (A)	6
	D. Communications sent outside the reporting period	18
	E. Observations on Tabulation (A)	20
III.	Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards	25
	A. Violations alleged	25
	B. Tabulation (B)	26
	C. Communications sent outside the reporting period	32
	D. Observations on Tabulation (B)	33

I. Introduction

1. The present report contains observations by the Special Rapporteur on extrajudicial, summary or arbitrary executions on communications sent between 1 March 2015 and 29 February 2016 and responses received from States and other actors between 1 May 2015 and 30 April 2016. During the period under review, the Special Rapporteur sent a total of 115 communications to 44 States and 2 other actors. 104 communications were sent jointly with other mandates, while 11 communications were sent by this mandate alone. Of all communications sent, 68 were urgent appeals and 47 were allegation letters.

2. It has been a long-term practice of the mandate to report to the Council on the communications sent to States and the replies received, initially in the main body of annual reports, and later in addendums. In 2005 the Special Rapporteur tabulated communications for the first time. This predated the practice of Special Procedures more broadly issuing a joint communications report at each session of the Human Rights Council, (most recently A/32/53), which was a welcome development. The Special Rapporteur takes the opportunity in this, his final submission to the Council, to reflect briefly on the practice. In this report, he retains the tabulated record of communications, while at the same time adds some analysis of the trends of communications sent, replies received, and some general reflections on certain of the subjects raised.

3. The communications procedure of the Special Rapporteur's mandate is something which takes a great deal of time, and it is important for the Council to be regularly apprised of the substance of this work in a manner that is useful and engaging. From the perspective of individual cases taken up, and from the perspective of reforms that might result from these illustrative examples of State practice, it is important that there be some kind of follow-up to the initial communication.

4. The joint communications report provides basic statistics with respect to the responsiveness of States overall to different mandates. With respect to this mandate, the Special Rapporteur received responses to 53 out of 115 communications sent within the reporting period. He thanks all Governments who have replied to his communications for their cooperation. 62 of the communications are yet to be responded to. In this period, the Special Rapporteur also received replies to 8 previous communications, i.e. sent prior to the reporting period for which he is grateful. This means the overall timely response rate for communications sent by this mandate is 46 per cent. While slightly higher than the system-wide reply rate for Special Procedures communications (42 per cent in 2015), it should be much higher. Moreover it should be noted that some of the responses included in this number are also purely procedural in nature

5. In its resolution 26/12, the Human Rights Council urged States "[t]o cooperate with and assist the Special Rapporteur in the performance of his or her tasks, to supply all necessary information requested by him or her and to react appropriately and expeditiously to his or her urgent appeals, and those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to do so without further delay". Therefore, the Special Rapporteur reiterates his appeal to all Governments to respond to communications in a timely manner so as to assist and cooperate with his mandate efficiently in accordance with Human Rights Council Resolution 26/12.

6. However, the most meaningful follow-up on the contents of the communications between the Special Rapporteur and a particular State, including—vitally—the response of the Government, can often be done by the source of the original information (in most cases either a lawyer representing the victim of his/her family, or a national human rights organisations). The Special Rapporteur believes that it is important that the sources are routinely and automatically informed after the suitable delay of confidentiality has elapsed both of the fact that a communication was sent and whether a response has been received.

The system should be set up in such a way that the source automatically receives copies of or links to the relevant correspondence once it is available.

7. The Special Rapporteur notes the role that could be played in this regard by NHRIs and Ombudspersons as well as UN human rights offices or country teams. Such institutions play a valuable role in following up on the recommendations made by Special Rapporteurs during their country visits, but could be perhaps more directly involved in the process of communications, once the initial communication, along with any reply from the Government, have been made public. The possibility that they are also given the automatic notification mentioned in the previous paragraph should be investigated.

8. In his final observations on communications report, the Special Rapporteur has experimented with a slightly different format, attempting to offer some follow-up information and commentary on the communications sent as part of his mandate. It will be a question for his successor as to whether this is a practice to continue. The Special Rapporteur would welcome feedback from States, NGOs and other users on whether this format works for them and how it can be improved

9. This report compiles in two tables the correspondence sent and received during the period under review: Tabulation (A) of cases transmitted and replies received to communications sent during the reporting period, and Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards. At the end of each tabulation, the Special Rapporteur offers his observations on the communications sent and the replies received during the reporting period.

II. Tabulation (A) of cases transmitted and replies received to communications sent during the reporting period

10. In Tabulation (A) all communications have been grouped by country, with countries listed alphabetically according to their names in English. The electronic version of the present document has each communication sent and reply received hyperlinked, and clicking on them will open the communication sent and the reply from the concerned State, respectively, as uploaded on the OHCHR website. All communications are also available in the Special Procedures communication reports.

11. Each communication is referenced as urgent appeal (UA), allegation letter (AL), joint urgent appeal (JUA) and joint allegation letter (JAL). This is followed by the date when the communication was issued, as well as the case number and, when applicable, the State's reply.

A. Violations alleged

12. In Tabulation (A) on communications and replies, the violations are classified into the following categories, using the short versions in parentheses:

(a) Non-respect of international standards on safeguards and restrictions relating to the imposition of capital punishment ("Death penalty safeguards");

(b) Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, or groups cooperating with or tolerated by the Government, as well as unidentified persons who may be linked to the categories mentioned above, when the Government is failing to take appropriate protection measures ("Death threats");

(c) Deaths in custody owing to torture, neglect, or the use of force, or fear of death in custody due to life-threatening conditions of detention ("Deaths in custody");

(d) Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality ("Excessive force");

(e) Deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death squads, or other private forces cooperating with or tolerated by the State ("Attacks or killings");

(f) Violations of the right to life during armed conflict, especially of the civilian population and other non-combatants, contrary to international humanitarian law ("Armed conflict");

(g) Expulsion, refoulement, or return of persons to a country or a place where their lives are in danger ("Expulsion");

(h) Lack of investigation or accountability, leading to impunity, lack of compensation or concerns for the rights of victims ("Impunity").

(i) Concerns about a legislative framework ("Legislation").

B. Character of replies received

13. The replies received have been classified according to the following six categories designed to assist the Human Rights Council in its task of evaluating the responses received to the communications sent within the reporting period and the effectiveness of the mandate:

(a) "No response" denotes the absence of a response to a communication sent within the reporting period;

(b) "Recent communication" denotes the absence of a response to a communication sent within the past 60 days;

(c) "Acknowledgement of receipt" refers to a reply acknowledging receipt that the communication was received and/or that it has been transmitted to the relevant State authorities;

(d) "Addresses some substantive issues" characterizes a reply that provided information on certain substantive issues raised in the communication;

(e) "Substantive response" denotes a reply that is responsive to the allegations and that substantively clarifies the facts. It does not, however, imply that the action taken necessarily complies with international human rights law.

(f) "Translation awaited" indicates that a response has been received, but has not yet been translated by the relevant services of the United Nations.

C. Tabulation (A)

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
Afghanistan	JAL	17/12/2015 (AFG 3/2015)	Group of individuals	No response	Attacks or killings
Australia	AL	20/11/2015 (AUS 8/2015)	1 male	Addresses some substantive issues 07/01/2016	Death penalty safeguards
Bahrain	JUA	23/11/2015 (BHR 7/2015)	2 males	Addresses some substantive issues 23/02/2016	Death penalty safeguards
Bangladesh	JAL	10/04/2015 (BGD 1/2015)	Group of individuals (49 individuals)	Acknowledgement of receipt 17/04/2015	Attacks or killings, excessive force; Impunity
	JAL	30/04/2015 (BGD 2/2015)	2 males (journalists/bloggers)	Acknowledgement of receipt 05/07/2015	Attacks or killings; death threats
	JUA	23/11/2015 (BGD 8/2015)	2 males	No response	Death penalty safeguards
	JAL	24/11/2015 (BGD 7/2015)	2 males (writers/publishers)	Acknowledgement of receipt 25/11/2015	Attacks or killings
Belarus	JUA	17/04/2015 (BLR 1/2015)	1 male (human rights lawyer)	Substantive response 12/06/2015	Death threats; Impunity
Brazil	AL	21/07/2015 (BRA 3/2015)	1 male	No response	Attacks or killings; excessive force

* Type of Communication: UA: Urgent Appeal; JUA: Joint Urgent Appeal; AL: Letter of Allegation; JAL: Joint Letter of Allegation.

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
	JUA	09/10/2015 (BRA 7/2015)	Group of individuals (human rights defenders and indigenous community	Substantive response 09/12/2015	Attacks or killings; death threats
Burundi	JUA	30/04/2015 (BDI 3/2015)	Group of individuals (protesters, human rights defender)	Addressees some substantive issues 04/05/2015	Excessive force; attacks or killings
	JUA	13/11/2015 (BDI 5/2015)	Group of individuals (including political activists and protesters)	Substantive response 07/01/2016 Substantive response 29/01/2016	Excessive force; attacks or killings; death in custody
Central African Republic	JAL	02/09/2015 (CAF 1/2015)	Group of individuals (militias and soldiers)	No response	Attacks or killings, excessive force; death in custody
Colombia	JUA	20/08/2015 (COL 4/2015)	Group of individuals (human rights defender and farmer community)	Substantive response 25/09/2015	Death threats; attacks or killings
	JAL	3/02/2015 (COL 5/2015)	Group of individuals (human rights defenders)	Substantive response 28/04/2016	Attacks or killings; death threats
Democratic Republic of Congo	JAL	10/12/2015 (COD 5/2015)	Group of individuals (including human rights defenders and political activists)	Acknowledgment of receipt 29/01/2016 Addresses some substantive issues 11/02/2016 Addresses some substantive issues 02/03/2016	Excessive force; attacks or killings; impunity
Dominican Republic	JUA	30/04/2015 (DOM 1/2015)	4 individuals (journalists)	No response	Death threats

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
Ethiopia	JUA	12/05/2015 (ETH 3/2015)	1 male	No response	Death penalty safeguards
	JUA	28/12/2015 (ETH 5/2015)	Group of individuals (protesters)	No response	Excessive force; attacks or killings
Egypt	JUA	10/04/2015 (EGY 5/2015)	6 males	Substantive response 07/05/2015	Death penalty safeguards
	JUA	29/05/2015 (EGY 7/2015)	Group of individuals	Substantive Response 30/07/2015	Death penalty safeguards
	JAL	21/07/2015 (EGY 11/2015)	Legislation	Substantive response 05/08/2015	Legislation
	JUA	14/08/2015 (EGY 12/2015)	1 male	Substantive Response 11/12/2015	Death penalty safeguards
El Salvador	JAL	28/05/2015 (SLV 2/2015)	2 males (human rights defender)	Substantive response 27/07/2015 Substantive response 11/08/2015	Attacks or killings
The Gambia	JAL	09/04/2015 (GMB 1/2015)	3 males	No response	Excessive force, attacks or killings; impunity
	JUA	24/07/2015 (GMB 2/2015)	Legislation	No response	Legislation, death penalty safeguards
Guatemala	JAL	25/11/2015 (GTM 4/2015)	9 male (human rights defender - environment)	Substantive response 14/03/2016	Attacks or killings; death threats

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
	JUA	07/01/2016 (GTM 6/2015)	1 male (human rights defender)	No response	Death threats; attacks or killings
	JAL	26/02/2016 (GTM 2/2016)	Group of individuals	Acknowledgement of receipt 06/04/2016	Impunity
Honduras	JUA	31/08/2015 (HND 2/2015)	1 female (journalist and human rights defender)	No response	Death threats; Attacks or killings; impunity
	JAL	11/11/2015 (HND 3/2015)	4 individuals (human rights defenders - LGBTI rights)	Substantive response 01/02/2016	Attacks or killings
	JUA	14/01/2016 (HND 1/2016)	6 individuals (human rights defenders; indigenous community)	Substantive response 04/04/2016	Attacks or killings; Death threats; Excessive force
India	UA	17/04/2015 (IND 5/2015)	Group of individuals	No response	Excessive force; attacks or killings, death threats
	JUA	25/09/2015 (IND 11/2015)	1 male (human rights defender)	No response	Death threats; Attacks or killings
	JAL	06/11/2015 (IND 13/2015)	4 females	No response	Attacks or killings
Indonesia	JUA	06/03/2015 (IDN 2/2015)	10 individuals (including foreign nationals)	No response	Death penalty safeguards
	UA	24/04/2015 (IDN 4/2015)	9 males, 1 female (including foreign nationals)	No response	Death penalty safeguards
	JUA	21/05/2015 (IDN 5/2015)	Group of individuals (migrants)	No response	Expulsion
	JAL	07/07/2015	2 males (human rights defenders -	No response	Attacks or killings

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
		(IDN 3/2015)	environment)		
	JAL	09/10/2015 (IDN 8/2015)	Group of individuals (indigenous community, protesters)	No response	Excessive force; attacks or killings
Iran	JUA	12/02/2015 (IRN 3/2015)	1 male	Substantive response 16/06/2015 Substantive response 04/03/2016	Death penalty safeguards
	JUA	02/06/2015 (IRN 7/2015)	2 males	Substantive response 04/03/2016	Death penalty safeguards
	JUA	10/06/2015 (IRN 8/2015)	1 male	No response	Death penalty safeguards
	JUA	29/07/2015 (IRN 11/2015)	1 male	No response	Death penalty safeguards
	JUA	10/08/2015 (IRN 12/2015)	1 male	Addresses some substantive issues 24/11/2015	Death penalty safeguards
	JUA	13/10/2015 (IRN 18/2015)	1 male	Addresses some substantive issues 24/11/2015	Death penalty safeguards
	JAL	16/10/2015 (IRN 19/2015)	1 male, 1 female	Addresses some substantive issues 13/11/2015 Addresses some substantive issues 16/03/2016	Death penalty safeguards

Country	Type of communication*	Date and case	Subjects concerned	Reply and type of reply	Violations alleged
	JAL	29/10/2015 (IRN 16/2015)	1 male	Addresses some substantive issues 26/04/2016	Death penalty safeguards
	JUA	11/11/2015 (IRN 21/2015)	3 males	Addresses some substantive issues 18/04/2016	Death penalty safeguards
	JUA	24/11/2015 (IRN 22/2015)	1 male (foreign national)	No response	Death penalty safeguards
	JUA	20/01/2016 (IRN 3/2016)	1 female	No response	Death penalty safeguards
Iraq	JUA	04/05/2015 (IRQ 1/2015)	Group of individuals	No response	Attacks or killings
	JAL	30/07/2015 (IRQ 3/2015)	1 male	No response	Attacks or killings
	JUA	27/11/2015 (IRQ 5/2015)	2 male (foreign nationals)	Substantive response 11/01/2016	Death penalty safeguards
Israel	JAL	22/10/2015 (ISR 6/2015)	Group of individuals	No response	Excessive force; attacks or killings
	JUA	08/12/2015 (ISR 9/2015)	Group of individuals (human rights defenders)	No response	Attacks or killings; death threats; excessive force;
Lesotho	JUA	30/11/2015 (LSO 1/2015)	Group of individuals (judiciary, members of armed forces)	No response	Excessive force; attacks or killings; death in custody; death threats
	JUA	19/02/2016 (LSO 1/2016)	Group of individuals (lawyers)	No response	Death threats; attacks or killings
Madagascar	JAL	13/10/2015	Group of individuals	No response	Excessive force; attacks or

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
		(MDG 1/2015)			killings; impunity
Malaysia	JUA	21/05/2015 (MYS 2/2015)	Group of individuals (migrants)	No response	Expulsion
Mexico	UA	15/04/2015 (MEX 4/2015)	2 males, 1 female	Addresses some substantive issues 15/06/2015	Excessive force; attacks or killings, death threats
Nicaragua	JAL	23/03/2015 (NIC 2/2015)	2 males	No response	Death in custody; excessive force; death threats
Other	JAL	07/07/2015 (OTH 3/2015)	2 males (human rights defenders –environment)	Substantive response 23/07/2015	Attacks or killings
	JUA	16/11/2015 (OTH 9/2015)	1 male	No response	Death penalty safeguards
Pakistan	JUA	19/03/2015 (PAK 2/2015)	1 male	No response	Death penalty safeguards
	JAL	24/04/2015 (PAK 3/2015)	Group of individuals (health workers)	Substantive response 04/05/2015 Substantive response 18/05/2015	Attacks or killings
	JAL	22/06/2015 (PAK 1/2015)	Group of individuals	Addresses some substantive issues 21/08/2015	Attacks or killings, death penalty safeguards
	JUA	24/07/2015 (PAK 5/2015)	1 male	No response	Death penalty safeguards
	JUA	28/07/2015 (PAK 6/2015)	1 male	No response	Death penalty safeguards

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
	JUA	03/08/2015 (PAK 7/2015)	1 male	Addresses some substantive issues 05/08/2015	Death penalty safeguards
	JUA	28/09/2015 (PAK 10/2015)	1 male	No response	Death penalty safeguards
	JAL	02/12/2015 (PAK 12/2015)	1 male (journalist and human rights defender)	No response	Attacks or killings
	UA	18/12/2015 (PAK 14/2015)	1 male	No response	Death penalty safeguards
	JUA	01/02/2016 (PAK 3/2016)	1 male	No response	Death penalty safeguards
	JUA	24/02/2016 (PAK 5/2016)	1 female (human rights lawyer)	No response	Death threats
Peru	JUA	25/08/2015 (PER 3/2015)	1 female (human rights defender)	Addresses some substantive issues 14/04/2016	Death threats
Philippines	JAL	24/12/2015 (PHL 6/2015)	4 individuals (human rights defenders)	No response	Excessive force; attacks or killings
Russian Federation	JAL	06/03/2015 (RUS 1/2015)	1 male (political activist)	Addresses some substantive issues 20/05/2015	Attacks or killings
	JAL	02/09/2015 (RUS 5/2015)	1 male (journalist)	No response	Attacks or killings; death threats; impunity
South Africa	JAL	01/05/2015 (ZAF 1/2015)	Group of individuals (foreign nationals, migrants)	No response	Attacks or killings; impunity
	JAL	03/09/2015	1 female (albinism)	No response	Attacks or killings

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
		(ZAF 2/2015)			
Saudi Arabia	JUA	13/05/2015 (SAU 2/2015)	1 male	Substantive response 18/05/2015	Death penalty safeguards
	JUA	25/08/2015 (SAU 4/2015)	7 males (foreign nationals)	No response	Death penalty safeguards
	JUA	21/09/2015 (SAU 6/2015)	1 male	Response in translation 28/12/2015	Death penalty safeguards
	JUA	30/09/2015 (SAU 5/2015)	1 male (foreign national)	No response	Death penalty safeguards
	JUA	19/10/2015 (SAU 8/2015)	1 male	No response	Death penalty safeguards
	AL	09/11/2015 (SAU 9/2015)	Group of individuals (including humanitarian workers)	No response	Excessive force; attacks or killings; armed conflict
	JUA	30/11/2015 (SAU 10/2015)	1 male	Response in translation 04/03/2016	Death penalty safeguards
	JUA	24/12/2015 (SAU 12/2015)	1 male (foreign national)	No response	Death penalty safeguards
Singapore	JUA	30/10/2015 (SGP 3/2015)	1 male (foreign national)	No Response	Death penalty safeguards
Somalia	JUA	16/11/2015 (SOM 1/2015)	1 male	No response	Death penalty safeguards
Sudan	JUA	12/06/2015 (SDN 4/2015)	2 male (religious leaders)	No response	Death penalty safeguards
	JUA	20/01/2016	Group of individuals	Response in translation	Death penalty safeguards

Country	Type of communication*	Date and case	Subjects concerned	Reply and type of reply	Violations alleged
		(SDN 1/2016)		29/04/2016	
South Sudan	JAL	27/08/2015 (SSD 2/2015)	1 male (journalist)	No response	Attacks or killings
Thailand	JUA	21/05/2015 (THA 3/2015)	Group of individuals (migrants)	Substantive response 22/05/2015	Expulsion
	JUA	27/05/2015 (THA 5/2015)	4 males	Acknowledgement of receipt 02/06/2015	Attacks or killings; Impunity
Tchad	JAL	04/09/2015 (TCD 1/2015)	Group of individuals		Death penalty safeguards
Turkey	JAL	21/09/2015 (TUR 2/2015)	Group of individuals	Addresses some substantive issues 20/11/2015	Excessive use of force; Attacks or killings
	JUA	01/12/2015 (TUR 4/2015)	1 male (human rights lawyer)	Substantive response 31/12/2015	Attacks or killings;
	UA	24/12/2015 (TUR 5/2015)	Group of individuals	Addresses some substantive issues 1/02/2016	Excessive force; Attacks or killings; impunity
	JUA	21/01/2016 (TUR 1/2016)	Group of individuals	Addresses some substantive issues 25/02/2016	Excessive force; Attacks or killings
USA	UA	23/01/2015 (USA 2/2015)	1 male	Addresses some substantive issues USA 2/2015	Death penalty safeguards
	JAL	24/03/2015 (USA 5/2015)	6 males	Addresses some substantive issues 02/09/2015	Attacks or killings; Excessive force; Armed conflict

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
	JAL	10/04/2015 (USA 7/2015)	Group of individuals (African American and other minorities)	Acknowledgment of receipt 05/08/2015 Addresses some substantive issues 03/12/2015	Excessive force; death in custody; death penalty safeguards, impunity
	JAL	07/05/2015 (USA 9/2015)	3 males (migrants)	Acknowledgment of receipt 25/06/2015 Substantive response 23/12/2015	Excessive force; attacks or killings
	JAL	26/06/2015 (USA 13/2015)	1 male	Addresses some substantive issues 04/11/2015	Death penalty safeguards
	JUA	13/07/2015 USA 17/2015	1 male	Addresses some substantive issues 20/07/2015	Death penalty safeguards
	JAL	08/10/2015 (USA 18/2015)	Group of individuals (medical staff and patients)	No response	Excessive force; attacks or killings, armed conflict
	AL	01/12/2015 (USA 20/2015)	Group of individuals	No response	Attacks or killings, legislation
Venezuela	JAL	27/03/2015 VEN 4/2015	1 male	Addresses some substantive issues (29/05/2015) Substantive response (18/06/2015)	Excessive force; Attacks or killings
	JAL	24/02/2016 (VEN 2/2016)	1 male (human rights lawyer)	No response	Attacks or killings

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
Viet Nam	JUA	30/10/2015 (VNM 1/2015)	2 male, 1 female	No response	Death penalty safeguards, death in custody; death threats
	JUA	25/11/2015 (VNM 2/2015)	2 male; 1 female (including human rights lawyers)	No response	Excessive force, attacks or killings; death threats
Yemen	JAL	24/03/2015 (YEM 1/2015)	6 males	No response	Excessive force; attacks or killings; armed conflict
	AL	09/11/2015 (YEM 2/2015)	Group of individuals (including humanitarian workers)	No response	Excessive force; Attacks or killings; armed conflict

D. Communications sent outside the reporting period

Country	*Type of communication*	*Date*	*Subject(s) concerned*	*Reply*	*Violation(s) alleged*
Angola	JAL	05/12/2013 (AGO 5/2013)	Group of individuals	Substantive response 22/12/2015	Excessive force; Attacks or killings
Colombia	JUA	25/02/2014 (COL 3/2014)	Group of individuals (human rights defenders)	Addresses some substantive issues 19/10/2015 Substantive response 04/01/2016	Death threats; attacks or killings
	JAL	11/08/2014 (COL 6/2014)	Group of individuals (human rights defenders and unionists)	Addresses some substantive issues 20/05/2015 Addresses some substantive issues 19/10/2015	Attacks or killings; death threats
	JUA	13/09/2013 (COL 10/2013)	Group of individuals (human rights lawyers)	Addresses some substantive issues 12/08/2015	Attacks or killings, death threats
	JUA	27/01/2014 (COL 2/2014)	4 males (human rights defenders - land rights, journalist)	Substantive response 04/01/2016	Attacks or killings; Death threats
Iran	JUA	31/07/2013 (IRN 12/2013)	4 males	Addresses some substantive issues 15/06/2015	Death penalty safeguards

JAL	30/12/2013 (IRN 25/2013)	4 males	Addressed some substantive issues 15/06/2015	Death penalty safeguards
JUA	14/10/2014 (IRN 23/2014)	1 male	Substantive response 16/06/2015	Death penalty safeguards

E. Observations on Tabulation (A)

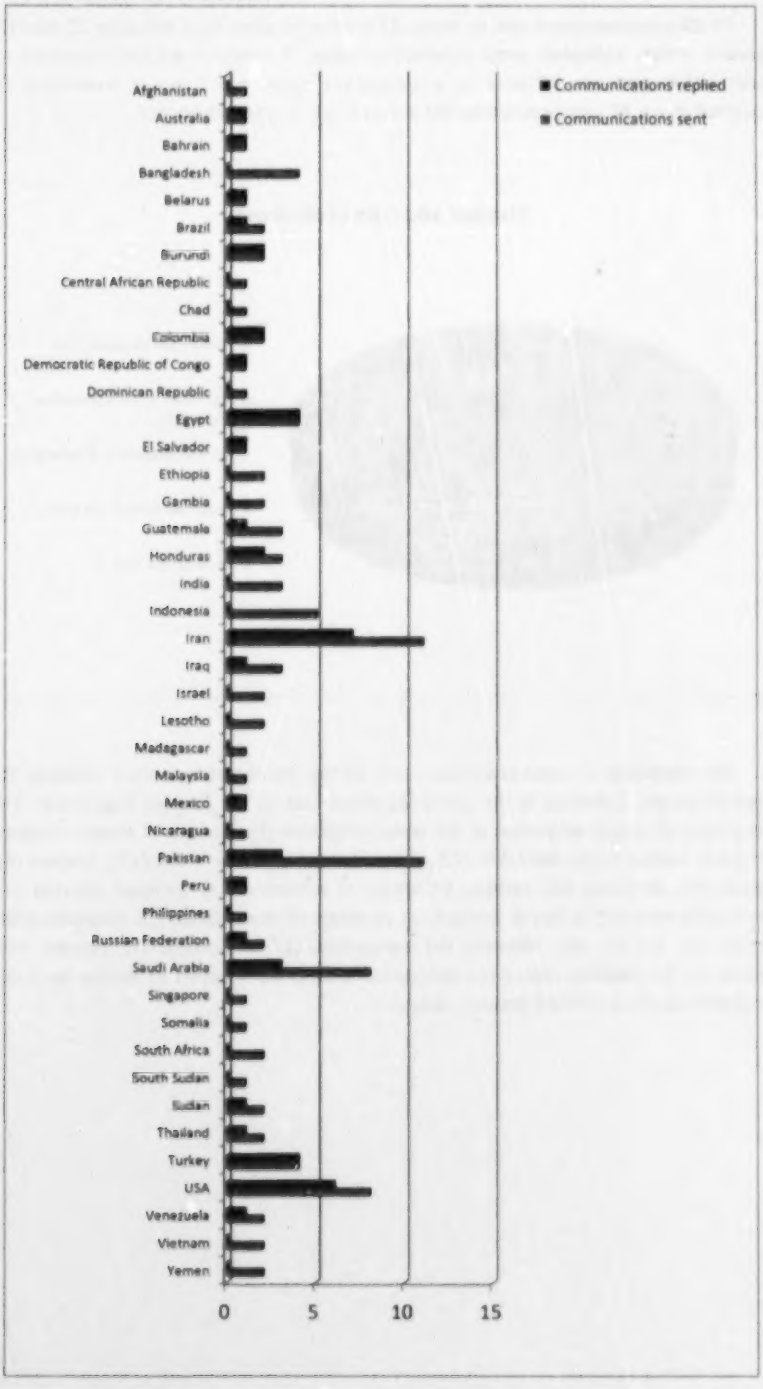
14. During the reporting period, many States have replied to one or more of the communications addressed to them (24 out of 44). The Special Rapporteur would like to thank all States who have responded substantively and in a timely manner to all or some of the communications sent (23). The assessment of individual cases in which the Special Rapporteur has intervened is an essential part of his work and he is grateful for the collaboration that he has received. The Special Rapporteur would like to thank particularly the Governments of Australia, Bahrain, Belarus, Burundi, Colombia, Democratic Republic of Congo, Egypt, El Salvador, Mexico, Peru, Russian Federation, Turkey and Venezuela for having replied substantively (addressing all or some of the questions raised) and within the required deadline to all the communications addressed to them in the reporting period.

15. A handful of States did not submit a timely reply to any of the communications sent, or have submitted merely an acknowledgement of receipt, including: Afghanistan, Bangladesh, Central African Republic, Dominican Republic, Ethiopia, The Gambia, India, Indonesia, Israel, Lesotho, Madagascar, Malaysia, Nicaragua, Philippines, South Africa, Singapore, Somalia, South Sudan, Tchad, Vietnam, Yemen. The responses from some of these States have arrived after the required deadline and for that reason fall outside of the reporting period of the present report.

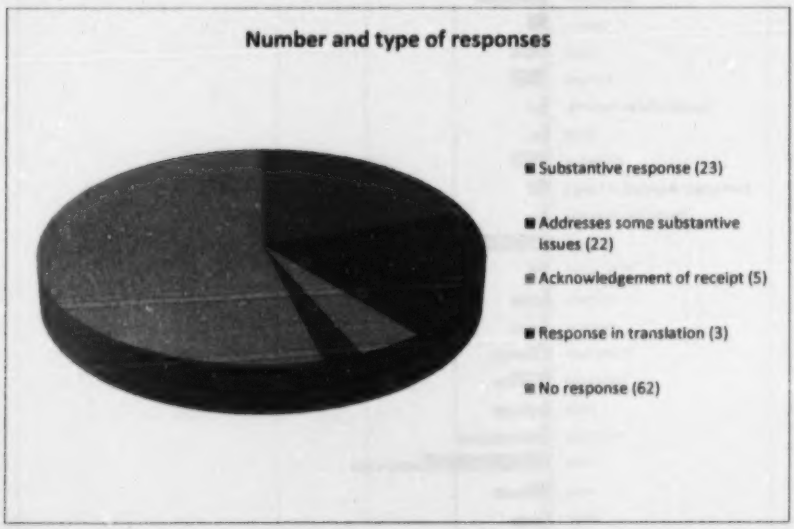
16. In all instances where no responses were received, the Special Rapporteur urges Governments to provide substantive responses as soon as possible.

17. To provide a global perspective on the communications with States during the reporting period, the table below reflects the number of communications sent to each State and the number of replies of a substantive nature received from them within the required deadline. Such replies comprise both substantive replies and replies which address some substantive issues. Acknowledgements of receipt are not considered as a reply for the purpose of this table, as they do not provide an effective response to the questions raised in the cases transmitted to Governments.

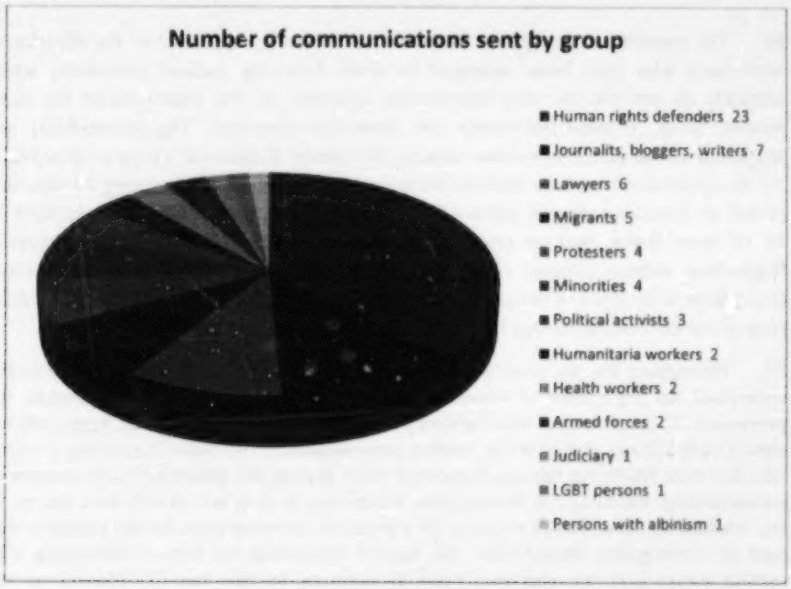
Communications with States



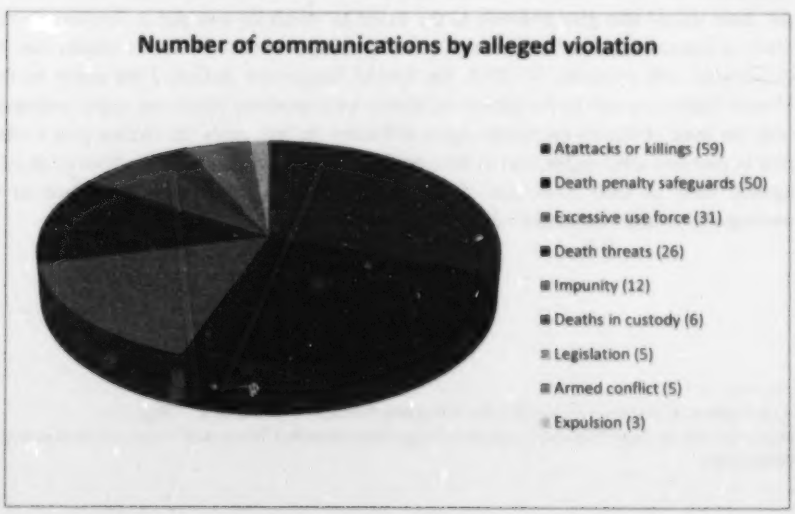
18. Of all communications sent to States, 23 received a substantive response, 22 received responses which addressed some substantive issues, 5 received acknowledgements of receipt which were not followed by a substantive reply, and 3 are in translation. As mentioned above, 62 communications did not receive any type of response.


Number and type of responses
Substantive response (23)
Addresses some substantive issues (22)
Acknowledgement of receipt (5)
Response in translation (3)
No response (62)

19. The tabulation of communications sent during the reporting period indicates the groups of people addressed in the communications sent by the Special Rapporteur. The main groups of people addressed in the communications (by number of communications sent) were: human rights defenders (23), journalists, bloggers or writers (7), lawyers (6), migrants (5), protesters (4), persons belonging to minorities (4), political activists (3), humanitarian workers (2), health workers (2), members of armed forces (2), members of the judiciary (1), lesbian, gay, bisexual and transgender (LGBT) people (1), persons with albinism (1). In addition, eight communications address the situation of foreign nationals for alleged violations of death penalty safeguards.



20. The main alleged violations covered in the communications sent during the reporting period were: attacks or killings (59); violation of death penalty safeguards (50), excessive use of force (31), death threats (26), impunity for violations of the right to life (12), deaths in custody (6), concerns about legislative frameworks (5), violations of the right to life in the context of armed conflict (5), and expulsion (3). Alleged attacks or killings and violations of the death penalty, feature prominently again this year in the number of communications sent.



21. The mandate of the Special Rapporteur is frequently appraised of the situation of individuals who have been sentenced to death following judicial procedures which allegedly do not comply with international standards for the imposition of the death penalty. Many of these individuals face immediate execution. The irreversibility and magnitude of the punishment often requires the Special Rapporteur's urgent intervention. All the countries which have received more than five communications during the reporting period are indeed retentionist states which continue to execute death penalty sentences. In all of those States, half or more of the communications received from the Special Rapporteur address alleged violations of death penalty safeguards. A more detail description of the types of violations addressed with regards to the imposition of the death penalty can be found in Section VI.

22. Throughout the six years of his mandate, the Special Rapporteur has continually underlined the importance of viewing the right to life as having two components: the prevention of or protection from arbitrary killings, and the need for full accountability should such killings occur. When sending communications to States concerning a victim who has been killed, the Special Rapporteur often focuses his questions on the process of accountability, including the investigation which may or may not already have begun. In this connection, conscious of the need for a practical reference point for the standards that such an investigation should meet, the Special Rapporteur has been collaborating with various actors over the past two years to bring up to date the UN Manual on the Investigation and Prevention of Extra-Legal, Arbitrary or Summary Executions (known as the Minnesota Protocol).[1]

23. The Special Rapporteur is conscious of having sent a number of communications in the past year concerning the targeting of human rights defenders. Of course, in the vast majority of these cases the Special Rapporteur has been joined by the Special Rapporteur on the situation of human rights defenders. Whether the attack or threat of attack is perpetrated by State agents, or whether State agents fail in their responsibility to protect defenders from attacks at the hands of non-State actors, the State's responsibilities with respect to the right to life are clearly engaged in such instances. In addition to direct protection measures, which may be appropriate and indeed necessary in certain conditions, the State should also give attention to the extent to which its own public response to the work of human rights defenders may be legitimising a climate in which attacks can be perpetrated with impunity. In 2012, the Special Rapporteur dedicated his report to the Human Rights Council to the subject of attacks on journalists, which has many analogies with the issue of attacks on human rights defenders. In both cases the victims play a vital role in enabling other rights, and in both cases the level of response of the State to threats against them or their work can significantly determine the dangers they face as a consequence of their important work.

[1] A description of the process to update the Minnesota Protocol is available at http://www.ohchr.org/EN/Issues/Executions/Pages/RevisionoftheUNManualPreventionExtraLegalArbitrary.aspx

III. Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards

24. Because of the urgency of the cases brought to his attention, the Special Rapporteur sends many communications concerning the unlawful application of the death penalty.

25. In its resolution 17/5, the Human Rights Council requested the Special Rapporteur in carrying out his mandate "[t]o continue to monitor the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto;". In this respect, the Special Rapporteur has included the following table on the status of individuals who were the subject of concern with regard to the application of the death penalty in the present report. He urges all concerned States to provide updated information on the status of the subjects of these urgent appeals.

26. Tabulation (B) provides details on the 50 cases transmitted to Governments with regards to alleged violations of death penalty safeguards, including identity of the individuals concerned, the charges brought against them, the alleged violations of death penalty safeguards, and an update on the current situation of those individuals (whether executions had taken place or not).

A. Violations alleged

27. In Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards, the violations are classified into the following categories:

(a) Fair trial concerns.
(b) Not "most serious crimes".
(c) Extraction of confession under torture
(d) Juvenile at time of offense.
(e) Execution of a person with intellectual or psychosocial disability.
(f) Imposition of the death penalty by Federal Government for facts which occurred in abolitionist state.
(g) Assistance of abolitionist State in the investigation of crimes that may result in the imposition of the death penalty in another State.

B. Tabulation (B)

Country	*Date appeal sent*	*Date response received*	*Name of individual*	*Charge alleged*	*Violation alleged*	*Status as far as could be established*
Australia	20/11/2015	07/01/2016	Mr. Areeb Majeed	Terrorist acts	Assistance of abolitionist State in the investigation of crimes that may result in the imposition of the death penalty in another State	Remains at risk
Bahrain	23/11/2015	23/02/2016	Mr. Mohamad Ramadan and Mr. Husain Ali Moosa	Terrorist acts	Fair trial concerns	Remains at risk
Bangladesh	23/11/2015		Mr. Ali Ahsan Mohammad Mujahid and Mr. Salauddin Quader Chowdhury	War crimes; genocide.	Fair trial concerns	Mr. Ali Ahsan Mohammad Mujahid and Mr. Salauddin Quader Chowdhury were executed—22/11/2015
Egypt	10/04/2015	07/05/2015	Mr. Mohamed Ali Afifi Badawi, Mr. Mohammad Bakrin Mohammad Haroun, Mr. Hani Mustafa Amin Amer, Mr. Islam Sayed Ahmed Ibrahim, Mr. Khaled Farag Mohammed Ali and one other male adult.	Terrorist acts	Fair trial concerns	Mr. Mohamed Ali Afifi Badawi, Mr. Mohammad Bakrin Mohammad Haroun, Mr. Hani Mustafa Amin Amer, Mr. Islam Sayed Ahmed Ibrahim, Mr. Khaled Farag Mohammed Ali and one other male adult were executed before 17/05/2015
	29/05/2015	30/07/2015	Mr. Mohamed Morsi Eissa El Ayyat and members of his Government	Murder; escaping detention; leaking documents; fraud; insulting the	Fair trial concerns; not most serious crimes.	Remain at risk

Country	Date appeal sent	Date response received	Name of individual	Charge alleged	Violation alleged	Status as far as could be established
				judiciary.		
	14/08/2015	11/12/2015	Mr. Ibrahim Halawa	Terrorist acts	Fair trial concerns; juvenile at time of offense.	Remain at risk
Ethiopia	12/05/2015		Mr. Andargachew Tsege	Terrorist acts	Fair trial concerns	Remains at risk
Indonesia	06/03/2015		Mr. Andrew Chan, Mr. Myuran Sukumaran, Mr Raheem Agbaje Salami, Mr. Zainal Abidin, Mr. Martin Anderson and Mr. Rodrigo Gularte.	Drug offences	Fair trial concerns; not most serious crimes; execution of a person with intellectual or psychosocial disability.	Mr. Andrew Chan, Mr. Myuran Sukumaran, Mr Raheem Agbaje Salami, Mr. Zainal Abidin, Mr. Martin Anderson and Mr. Rodrigo Gularte and two other persons were executed—29/04/2016.
	24/04/2015		Mr. Andrew Chan, Mr. Myuran Sukumaran, Mr Raheem Agbaje Salami, Mr. Zainal Abidin, Mr. Martin Anderson and Mr. Rodrigo Gularte, Ms. Mary Jane Fiesta Veloso, Mr. Sylvester Obiekwe Nwolise, Mr. Okwudili Oyatanze and one other person.	Drug offences	Fair trial concerns; not most serious crimes; execution of a person with intellectual or psychosocial disability.	Mr. Andrew Chan, Mr. Myuran Sukumaran, Mr Raheem Agbaje Salami, Mr. Zainal Abidin, Mr. Martin Anderson, Mr. Rodrigo Gularte, Mr. Sylvester Obiekwe Nwolise and Mr. Okwudili Oyatanze were executed —29/04/2016; Ms. Mary Jane Fiesta Veloso remains at risk.
Iran	02/06/2015	04/03/2016	Mr. Saman Naseem and Mr. Hamid Ahmadi	Enmity against God; corruption on earth; murder.	Fair trial concerns; juvenile at time of offense.	Remain at risk
	10/06/2015		Mr. Ehsan Shah Ghasem	Murder	Fair trial concerns	Remains at risk
	29/07/2015		Mr. Salar Shadizadi	Murder	Juvenile at time of offense	Remains at risk

Country	Date appeal sent	Date response received	Name of individual	Charge alleged	Violation alleged	Status as far as could be established
	10/08/2015		Dr. Mohammad Ali Taheri	Spreading corruption on earth	Not most serious crime	Remains at risk
	13/10/2015	24/11/2015	Mr. Mohammed Ali Taheri	Spreading corruption on earth	Not most serious crime	Remains at risk
	16/10/2015	13/11/2015 and 16/03/2016	Ms. Fatemeh Salbehi and Mr. Samad Zahabi	Murder	Fair trial concerns; juvenile at time of offense.	Ms. Salbehil was executed—13/10/2015; Mr. Zahabi was executed—06/10/2015
	29/10/2015	26/04/2016	Mr. Behrouz Alkhani	Enmity against God; terrorist acts.	Fair trial concerns	Mr. Alkhani was executed—26/08/2015
	11/11/2015	18/04/2016	Mr. Mohammad Ali Zehi and Mr. Milad Azimi	Drug offenses; waging war against God; links to Salafist groups; propaganda against the system; murder.	Fair trial concerns; juvenile at time of offense; not most serious crime.	Remain at risk
	24/11/2015		Mr. Kelven Ozube Agbai	Drug offenses	Fair trial concerns; not most serious crime.	Remains at risk
	31/07/2015	15/06/2015	Mr. Ghazi Abbasi, Mr. Abdul-Reza Amir-Khanafereh, Mr. Abdul-Amir Mojaddami and Mr. Jasim Moghaddam Payam	Enmity against God; corruption on earth.	Fair trial concerns	Mr. Ghazi Abbasi, Mr. Abdul-Reza Amir-Khanafereh, Mr. Abdul-Amir Mojaddami and Mr. Jasim Moghaddam Payam were executed—04/12/2013.
	20/01/2016		Ms. Fariba Khalegi	Adultery	Fair trial co.icerns; not most serious	Remains at risk

Country	*Date appeal sent*	*Date response received*	*Name of individual*	*Charge alleged*	*Violation alleged*	*Status as far as could be established*
					crime.	
Iraq	27/11/2015	11/01/2016	Mr. Saleh Moussa Ahmed alBaidany and Mr. Hamaad Abdel-Rahman Hamaad	Terrorist acts	Fair trial concerns; juvenile at time of offense.	Unknown
Other	16/11/2015	10/05/2016	Mr. Abdullahi Ali	Murder	Execution of a person with intellectual or psychological disabilities	Remains at risk
Pakistan	19/03/2015		Mr. Shafqat Hussain	Kidnapping and involuntary manslaughter	Fair trial concerns; juvenile at time of offense.	Mr. Shafqat Hussain was executed—04/08/2015
	03/08/2015	05/08/2015	Mr. Shafqat Hussain	Kidnapping and involuntary manslaughter	Fair trial concerns; juvenile at time of offense.	Mr. Shafqat Hussain was executed—04/08/2015
	24/07/2015		Mr. Abdul Basit	Murder	Fair trial concerns	Remains at risk
	01/02/2016		Mr. Abdul Basit	Murder	Fair trial concerns	Remains at risk
	28/07/2015		Mr. Khizar Hayat	Murder	Fair trial concerns; execution of a person with intellectual or psychological disabilities	Remains at risk
	28/09/2015		Mr. Ansar Iqbal	Murder	Fair trial concerns; juvenile at time of offense.	Mr. Ansar Iqbal was executed—29/09/2015
	18/12/2015		Mr. Muhammad Anwar	Murder	Juvenile at time of offence	Remains at risk
Saudi Arabia	25/08/2015		Mr. Mohammad Afzal, Mr. Safeer Ahmad, Mr. Mohammad Fiaz, Mr. Mohammad Imran, Mr.	Drug offences	Fair trial concerns; not most serious crime.	Remain at risk

Country	*Date appeal sent*	*Date response received*	*Name of individual*	*Charge alleged*	*Violation alleged*	*Status as far as could be established*
			Ghulam Shabbir, Mr. Mohammad Irfan and Mr. Liaquat Ali			
	21/09/2015	28/12/2015	Mr. Ali Mohammed al-Nimr	Treason; membership of terrorist group.	Fair trial concerns; juvenile at time of offence.	Remains at risk
	30/09/2015		Mr. Husain Abu al Khair	Drug offences	Fair trial concerns; not most serious crime.	Remains at risk
	19/10/2015		Mr. Dawood Hussain al-Marhoon	Sowing corruption and breaching security; participation in protests; terrorism-related offences.	Fair trial concerns; juvenile at time of offence.	Remains at risk
	30/11/2015	04/03/2016	Mr. Ashraf Fayadh	Apostasy; blasphemy.	Fair trial concerns; Not most serious crime.	Sentence overturned to prison sentence and corporal punishment.
	13/05/2015	18/05/2015 and 26/10/2015	Mr. Sheikh Nimr Baqir Al-Nimr	Terrorism-related offences	Fair trial concerns	Mr. Sheikh Nimr Baqir Al-Nimr was executed—around 02/01/2016.
	24/12/2015		Mr. Ali Agirdas	Drug offences	Fair trial concerns; not most serious crime.	Mr. Ali Agirdas was executed—20/11/2014
Singapore	30/10/2015		Mr. Kho Jabing	Murder	Fair trial concerns	Mr. Kho Jabing was executed—20/05/2016
Somalia	16/11/2015		Mr. Abdullahi Ali	Murder	Fair trial concerns; execution of a person with intellectual or psychological	Remains at risk

Country	*Date appeal sent*	*Date response received*	*Name of individual*	*Charge alleged*	*Violation alleged*	*Status as far as could be established*
					disabilities.	
Sudan	20/01/2016	29/04/2016	27 individuals	Apostasy	Juvenile at time of offense; Fair trial concerns; not most serious crime.	Remain at risk
Tchad	04/09/2015		10 individuals	Membership of a terrorist group	Fair trial concerns.	Unknown
USA	10/04/2015	05/08/2015 and 03/12/2015	Group of individuals	Unknown	Fair trial concerns	One person died in custody; none was executed.
	26/06/2015	04/11/2015	One adult male	Murder	Fair trial concerns; imposition of the death penalty by Federal Government for facts which occurred in abolitionist state.	Remains at risk
	13/07/2015	20/07/2015	Mr. David Zink	Murder	Fair trial concerns; execution of a person with intellectual or psychological disabilities.	Mr. David Zink was executed—14/07/2015
Viet Nam	30/10/2015		Mr. Le Van Manh	Murder; rape.	Fair trial concerns;	Remains at risk

C. Communications sent outside the reporting period

Country	*Date appeal sent*	*Date response received*	*Name of individual*	*Charge alleged*	*Violation alleged*	*Status as far as could be established*
Iran	30/12/2013	15/06/2015	Mr. Ghazi Abbasi, Mr. Abdul-Reza Amir-Khanafereh, Mr. Abdul-Amir Mojaddami and Mr. Jasim Moghaddam Payam	Enmity against God; corruption on earth.	Fair trial concerns	Mr. Ghazi Abbasi, Mr. Abdul-Reza Amir-Khanafereh, Mr. Abdul-Amir Mojaddami and Mr. Jasim Moghaddam Payam were executed—04/12/2013.
	14/10/2014	16/06/2015 and 04/03/2016	Mr. Saman Naseem	Enmity against God; corruption on earth.	Fair trial concerns	Remains at risk.
	12/02/2015	16/06/2015 and 04/03/2016	Mr. Saman Naseem	Enmity against God; corruption on earth.	Fair trial concerns	Remains at risk.
USA	23/01/2015	19/06/2015	Mr. Warren Hill	Murder	Execution of a person with intellectual or psychological disabilities	Mr. Warren Hill was executed—27/01/2015

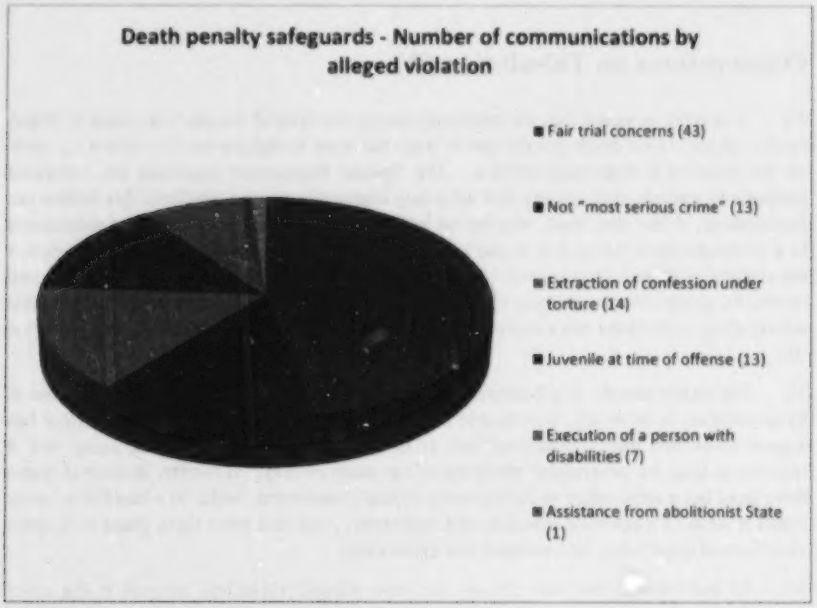
D. Observations on Tabulation (B)

28. It should be noted that the communications the Special Rapporteur sends to States on the subject of the death penalty are in ways the most straightforward to follow-up upon on the basis of a desk-based review. The Special Rapporteur expresses his continued gratitude to various civil society and advocacy organisations who facilitate this follow up. Establishing, at the very least, whether an individual has indeed been executed subsequent to a communication being sent to the Government provides a helpful reference to whether the sending of these urgent appeals is effective in ensuring that States abide by international standards, prospectively, in their application of the death penalty. According to available information, executions were registered in 8 of the 15 countries addressed in Tabulation (B).

29. The death penalty is a barbaric punishment which, viewed from the perspective of State practice, is in steady, irrevocable and terminal decline. The Special Rapporteur has argued elsewhere that international law is in principle abolitionist, in the sense that it requires at least the progressive abolition of the death penalty.[2] However, in several States there have been steps taken to re-introduce capital punishment, while in a handful of other States it remains a common practice, and, regrettably, one that often takes place in flagrant violations of established international law protections.

30. As indicated in the table below, the main alleged violations covered in the cases transmitted to Governments during the reporting period were: fair trial concerns in judicial procedures leading to the imposition of the death penalty (43); the imposition of the death penalty for crimes which do not meet the threshold of the "most serious crimes" (13); extraction of confessions under torture (14); juvenile at time of offense (13); execution of a person with intellectual or psychosocial disability (7); assistance of abolitionist State in the investigation of crimes that may result in the imposition of the death penalty in another State (1); and the imposition of the death penalty by Federal Government for facts which occurred in abolitionist state (1).

[2] Christof Heyns & Thomas Probert 'The right to life and the progressive abolition of the death penalty' in *Moving Away from the Death Penalty: Argument, Trends and Perspectives* (New York: United Nations, 2015)


Death penalty safeguards - Number of communications by alleged violation
Fair trial concerns (43)
Not "most serious crime" (13)
Extraction of confession under torture (14)
Juvenile at time of offense (13)
Execution of a person with disabilities (7)
Assistance from abolitionist State (1)

31. The Special Rapporteur is concerned about the alarming number of cases in which the death sentence was allegedly imposed following judicial procedures that fall short of international standards of fair trial and due process, a necessary requirement for the lawful imposition of this type of punishment. Forty-three out of the 50 communications considered in Tabulation (B) address this issue. One of the most dangerous abuses addressed in communications appears to be the use of the death penalty for crimes that are not the "most serious". During the past year, the Special Rapporteur sent 13 communications about the imposition of the death penalty for various offences that do not meet this threshold.

32. In this connection, the Special Rapporteur particularly highlights the imposition of the death penalty for drugs offences. In 2015, the World Day Against the Death Penalty was used to underscore the extent of this problem. Moreover, earlier this year, the Special Rapporteur joined a demarche of several Rapporteurs to the UN General Assembly Special Session on drugs in which they made clear that 'the application of capital punishment for drug-related offenses directly contravenes international human rights law' and urged States 'to make immediate commitments towards its full abolition.'[3]

33. The Special Rapporteur has also frequently sent communications regarding the planned execution of individuals who must be protected from the death penalty (20): most commonly those suffering from a psycho-social disability (7 communications), or those who have been convicted for crimes committed as juveniles, in some cases those who are

[3] Joint Open Letter by the UN Working Group on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; torture and other cruel, inhuman or degrading treatment or punishment; the right of everyone to the highest attainable standard of mental and physical health; and the Committee on the Rights of the Child, on the occasion of the United Nation General Assembly Special Session on Drugs New York, 19-21 April 2016 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19828&LangID=E

still juveniles (13 communications). In this latter case, the Special Rapporteur underlines that the burden of proof should rest on the prosecution to demonstrate that a defendant was an adult at the time the crime was perpetrated.

34. The Special Rapporteur is also concerned about the number of instances in which he has addressed allegations of a capital sentence being proposed against an individual after a "trial" in or before which evidence has been derived from torture (14 communications). This manifestly undermines the credibility that the sentence is being imposed after a fair trial. In addition, 26 communications address overall allegations of torture of individuals who have been sentenced to death.